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Canada Royal Commission  
on pilotage

Hearings 1964-65

Nos 154-156









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**ROYAL COMMISSION**

ON

60  
**PILOTAGE**

**HEARINGS**

HELD AT  
Ottawa

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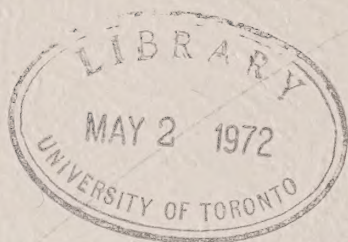
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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held in  
the Exchequer Court Building, Ottawa,  
Ontario, on Thursday, the 22nd day of  
October, 1964.

COMMISSION

The Honourable Mr. Justice Bernier	Chairman
Robert K. Smith, Esq. Q.C.	Member
Harold A. Renwick, Esq.	Member
Gilbert Nadeau, Esq.	Secretary

COMMISSION COUNSEL

Mr. Maurice Jacques

PRESENT

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; the Corporation of the Montreal Harbour Pilots; the Corporation of the St. Lawrence River and Seaway Pilots; the Corporation of the Upper St. Lawrence Pilots, the Corporation of the Mid-St. Lawrence Pilots
Mr. R. Langlois	for the Canadian Merchant Service Guild
Mr. R. Macgillivray	for the Department of Transport







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October 22, 1964

CAPTAIN SLOCOMBE, Sworn

MR. LALONDE: My Lord, before we start on the subjects raised yesterday afternoon, I had time to examine the audit reports prepared by the auditors in connection with Exhibit 1391 and filed as Exhibit 1391.

At the present time I do not think I need to have the auditors on the stand because at first sight the main points I would have liked to raise are probably more argumentative than purely of an evidential nature. I would limit myself to press the points on which I find at first sight there is certainly room for argument.

First of all, in connection with the audit report for the year 1962, on page 1, there is a statement to the effect, and I quote: "Pilot boat operators at Iroquois and Detour were paid on the basis of an annual guarantee of 80% for all trips passing through this area at the rate of \$30.00 for Iroquois and \$17.50 for Detour. The individual charges appear high. Moreover, it was explained that in order to obtain the equipment and services necessary to the operation the guaranteed prices were negotiated with the boat operators."

We have no evidence in this paper on what dates the auditors based themselves to judge that these charges were high. I don't know myself whether they are too high or too low. It is just that there is nothing here to substantiate that statement. The main point for both the years 1962 and







1 1963 is in connection with legal expenses. For 1962  
2 there is a statement in paragraph 11, page 4 in which  
3 it is stated, and I quote: "In my opinion the  
4 administrative duties performed by the attorneys are  
5 duplicate services since administrators were also  
6 engaged and paid for for this material." Further  
7 up in the report it is stated: "These services of  
8 the administrators retained for the year 1962 were found  
9 unsatisfactory and the attorneys were called upon by  
10 the Association to act on administrative matters during  
11 the course of the year."

12 Now, it is true administrators  
13 were engaged, and in the course of the year they were  
14 found unsatisfactory, and the Association obviously had  
15 to look somewhere else on an emergency basis for help  
16 in this matter.

17 Certainly I cannot agree with  
18 the point of view that these services would have been  
19 duplicate services and the charges for these services  
20 should have been borne only by the American pilots. I  
21 say there is no direct evidence that they were strictly  
22 duplicate services. They were more of a service  
23 required on an emergency basis.

24 Later on it is stated: "It is  
25 also pointed out that legal representation for Canadian  
26 pilots is the responsibility of the Department of  
27 Transport and not of the Lake Superior Pilots'  
28 Association".

29 I find such a statement rather  
30 amazing in the sense that the Department of Transport is







1 the employer, and in a way it is rather surprising  
2 that an employer should state that legal representation  
3 for his employees is going to be made by himself.

4 THE CHAIRMAN: What is your last point,  
5 the third point?

6 MR. LALONDE: The third point is the  
7 point that the statement is made by the auditor that  
8 legal representation for Canadian pilots is the  
9 responsibility of the Department of Transport.

10 THE CHAIRMAN: I see.

11 MR. LALONDE: And not the Lake Superior  
12 Pilots' Association. Now, if I look at the audit  
13 report for the year 1963, at page 9 there is a similar  
14 statement in connection with legal expenses. The  
15 report states: "Since all the legal services pertaining  
16 to Canadian pilots were performed by the Department of  
17 Transport Law Division and without cost to the Corporation,  
18 it is considered that the amount of \$5,470.16 should  
19 be borne exclusively by the Corporation."

20 I examined some of the Exhibits  
21 annexed to Exhibit 1391, particularly detailed bills  
22 by a firm of attorneys retained by the Lake Superior  
23 Pilots' Association, and I suggest that the Commission  
24 have a look at that statement. I have found myself,  
25 reading these documents, that a fair amount of the work  
26 done by the attorneys in this bill certainly was to the  
27 advantage of all the pilots concerned; at least was  
28 concerned with the operation of the District generally,  
29 whether they be Canadian or American pilots. The work  
30 could be considered as expenses connected with the





1 administration of pilotage and operation of pilotage  
2 generally in the District. I cannot very well  
3 understand the point of view of the Lake Superior  
4 Pilots' Association that a share of these legal  
5 expenses should be considered as expenses of the  
6 District itself rather than strictly the Pilots'  
7 Association, the American Pilots' Association.

8 Finally, at page 11, paragraph  
9 19, it reads as follows: "The Association has  
10 established a provision for uncollectable accounts  
11 of \$1,000.00 to provide for anticipated losses during  
12 the 1963 season, the amount of which will not be known  
13 until a later date. It was indicated to a representative  
14 of the Secretary of Commerce that this accounting  
15 treatment is unsatisfactory in view of means available  
16 to effect collection of valid charges for pilotage and  
17 expenses made against ships."

18 I don't know what experience  
19 this auditor has with pilotage matters, but at first  
20 sight it would appear that the provision for \$1,000.00  
21 for uncollectable accounts is not excessive in the  
22 light of over \$300,000.00 gross revenue in that  
23 District, especially in view of the experience in  
24 Pilotage Districts where the Department of Transport  
25 or the Pilotage Authority of Canada is responsible,  
26 due to the fact that there have been uncollectable  
27 accounts regularly. Some years they were quite high,  
28 but these have been reduced during the last few years.  
29 Still, once in a while you will get uncollectable accounts.

30 These are the points which I







1 would like to raise before the Commission. I don't  
2 think they are really of the nature to require a  
3 witness.

4 THE CHAIRMAN: I think they are because  
5 there is no other way of knowing what is the meaning  
6 of that auditor without having him here. You have  
7 raised five questions, so we are going to put those  
8 five questions to him so he can get himself prepared  
9 to answer that and will come to answer that.

10 MR. LALONDE: Thank you very much. I  
11 would appreciate it if it can be made available.

12 THE CHAIRMAN: And Mr. Brisset could  
13 glance through that also, and if he finds other questions  
14 he would like to put to the auditor, and other  
15 counsel also, we could give him a list of questions.  
16 We have five now and we may have others.

17

18

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Slocombe, dir  
(Jacques)

1 MR. LALONDE: After a night's sleep I  
2 have no other questions to ask Captain Slocombe on  
3 the questions raised yesterday.

4 MR. JACQUES: It must have been a very  
5 sound sleep.

6 DIRECT EXAMINATION BY MR. JACQUES:

7 Q. We have reached the question  
8 referring to delays in question 3, and I might just  
9 read an extract from Mr. Saucier's evidence, volume  
10 87 A, page 10882, and I quote:

11 "The problem of pilots in my  
12 District, there is no doubt that  
13 the fire, so to speak, comes from  
14 the Department of Transport and  
15 that the Department -- all we  
16 ask is taken into very serious  
17 consideration and here is where  
18 is our real problem. We write to  
19 the Department of Transport, the  
20 Department transfers it to another  
21 superior officer. The other  
22 superior officer passes on the  
23 buck to another superior officer  
24 and then the great chief replies  
25 that he is studying the matter so  
26 the pilot waits and waits and when  
27 by mere chance we arrive at an  
28 agreement at the end of the winter,  
29 I don't think to my knowledge, I  
30 don't know, but it seems to me





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Slocombe, dir  
(Jacques)

1 never once have we been able with  
2 the Department of Transport with  
3 the Shipping Federation -- we  
4 have all accepted the same price,  
5 the tariff, I don't think that  
6 we have ever been able to put this  
7 into application during the  
8 navigation season. Always have  
9 to wait and then we get the  
10 agreement and here there is a  
11 big problem."

12 I could go on reading, but I think I  
13 might stop there.

14 A. Well, My Lord, I don't think  
15 there is much I can say about that except that some  
16 problems are more difficult to bring to finality than  
17 others are. It is not that they are not bothered, as  
18 Mr. Brisset said the other day, but it is just that  
19 there are other pressing matters also.

20 If one particular District  
21 doesn't get its problem looked at immediately, it is  
22 often because there is another District problem being  
23 looked after at the same time.

24 Q. But with respect to new tariffs  
25 or changes in tariffs, the pilots seem to imply that  
26 the agreements reached between the Shipping Federation  
27 and the Department and themselves were that they would  
28 be implemented at the beginning of the season and not  
29 at any time that it might be convenient for the Governor-  
30







Slocombe, dir  
(Jacques)

1 In-Council to adopt an Order-In-Council. Was that  
2 your understanding also? That, say, for instance, a  
3 change of rates would be implemented at the beginning  
4 of the season?

5 A. Well, this has often been the  
6 case when there has been agreement reached with the  
7 Shipping Federation and possibly the Dominion Marine  
8 Association as well, and in such cases sometimes the  
9 billing has been put out under the proposed tariff  
10 right from the beginning of the season.

11 Q. I see.

12 A. But any company that wished to  
13 dispute that, and I don't need to tell you, Mr. Jacques,  
14 could have disputed it prior to the actual passage of  
15 the Order-In-Council. We just can't get an Order-In-  
16 Council passed just when we want it. We just do the  
17 best we can.

18 Q. I see. The next question  
19 refers to a memorandum entitled Possible Courses of  
20 Action in Regard to --

21 THE CHAIRMAN: I am just wondering about  
22 the difference between the tariffs and the amount  
23 collected. What is it? It is not the due, legally  
24 speaking, so therefore where is it going to go? It  
25 can't go to the pilot. It is not a due. It is going  
26 to be a due only when it is promulgated and maybe that  
27 is a little better. But it is public service, and  
28 I don't know how it could be collected even by agreement.

29 MR. MACGILLIVRAY: There is no legal  
30 basis for collecting it.







Slocombe, dir  
(Jacques)

1 THE CHAIRMAN: The by-laws talk about  
2 dues. They can't go anywhere. I am just saying that.  
3 All right, Mr. Jacques.

4 MR. JACQUES: Q. Memorandum entitled  
5 Possible Courses of Action in Regard to Kingston-Ottawa  
6 Pilotage District, and there is a memo which has been  
7 filed by the Shipping Federation, Volume 2, Exhibit 726,  
8 page 65. Would you like to read that memo to refresh  
9 your memory?

10 A. Yes. I believe Captain  
11 Matheson's evidence was that this was a piece of paper  
12 that was presented or discussed at the meeting in  
13 Montreal, I think. I don't recall that I was there,  
14 but I have no doubt that Captain Matheson's evidence  
15 on this is correct. These were possible courses of  
16 action to deal with the situation which had arisen.

17 Q. Would you recall what the policy  
18 of the Department was with respect to possible courses  
19 of action?

20 A. No policy had been decided at  
21 that time. These were, as the caption indicates,  
22 possible courses of action.

23 Q. But your Department had not  
24 chosen one of the possible courses as outlined in the  
25 Exhibit, or any other one for that matter?

26 A. No. I think I can answer no to  
27 that question definitely.

28 Q. This is connected with the next  
29 sub-question, and I might refer you to Exhibit 912;  
30 912 includes several letters from the Shipping Federation





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Slocombe, dir  
(Jacques)

0/22  
1 to Mr. Cumyn. I draw your attention particularly to  
2 a letter dated October 30th, 1959 where the joint  
3 views of the three shipping associations concerned are  
4 outlined.

5 A. Yes. I do not think I have  
6 anything to add to what is in that, Mr. Jacques.

7 Q. Were these views of the shipping  
8 associations also the views of the Department at that  
9 time?

10 A. This means I have to read through  
11 all that, Mr. Jacques.

12 Q. No, it is not necessary to read  
13 all that; you may read only the letter of October 30th,  
14 1959.

15 A. Excuse me.

16 ---Witness reads letter.

17 What is your question?

18 Q. Were the views of the shipping  
19 people also then the views of the Department?

20 A. Well, the Shipping Federation put  
21 forward its views as indicated in the evidence there  
22 in the Exhibit and these views were discussed in the  
23 Department. The final decision arrived at was that  
24 the Department would take this line of telling the  
25 pilots that a certain action would be taken unless they  
26 -- I think it was a threatened strike, was it not?

27 Q. Yes.

28 A. Unless the threatened action was  
29 postponed, or not taken.

30 Q. The last sub-question is: Explain







Slocombe, dir  
(Jacques)

1 the proposed abolition of the District. I think several  
2 mentions of this abolition have been made in the past  
3 and in particular there is one difficulty with respect  
4 to compulsory payment of dues and one of the reasons  
5 why the District was abolished as stated before was  
6 in order to have compulsory payment of dues in the  
7 wholly Canadian section of the River. Is that correct?

8 A. You have here in 1959, Mr.  
9 Jacques, a question.

10 Q. Yes, I am sorry.

11 A. That is in 1959.

12 Q. 1959?

13 A. The actual abolition of the  
14 District late in 1960 was merely to make two other  
15 Districts, but in 1959 it appears it has reference  
16 again to a similar situation to that which was described  
17 in the former question.

18 Q. Yes, and discussed yesterday.  
19 Question No. 4 -- During the whole time the District  
20 was valid was there any objection raised by the U.S.  
21 authorities with respect to Canadian pilots piloting  
22 in American waters?

23 A. No, at no time was the Department  
24 aware of any objections raised by the United States  
25 authorities on the piloting by Canadian pilots in the  
26 United States waters of the St. Lawrence.

27 Q. Has the Department had any  
28 knowledge of U.S. pilots' licences issued for the whole  
29 of the St. Lawrence in 1959 or any other years?

30 A. As has been explained before, these





Slocombe, dir  
(Jacques)

1 were first class and second class pilots' licences which  
2 represent the American equivalent to our mates' and  
3 second mates' certificates on the Great Lakes. They do  
4 not have mates' and second mates' certificates so I  
5 understand. They have a master's certificate. But  
6 their law requires that every ship shall be piloted at  
7 all times by a licensed pilot; so for the lake ships  
8 they got around this by calling their certificates  
9 pilots' licences.

10 Q. I see. Question No. 5 ---

11 MR. BRISSET: May I be permitted a  
12 question?

13 MR. JACQUES: Yes, I am sorry.

14 CROSS-EXAMINATION BY MR. BRISSET:

15 Q. Captain, to your knowledge are  
16 the requirements of the U.S. authorities for the  
17 issuance of those pilots' licences on the Great Lakes  
18 about equivalent to the requirements of the Canadian  
19 Government for the issuance of certificates of  
20 competency either as master or mate?

21 A. Fairly similar, I think, Mr.  
22 Brisset, except that we have never felt it necessary  
23 that a man should have navigated on any particular  
24 stretch of water in order to be able to navigate there.  
25 On the American side for these pilots' licences they  
26 do require a certain number of trips into a lake for  
27 which their certificate or their pilot's licence is  
28 to be valid. This has not been our view at any time.

29 Q. However, in Canada, Captain,  
30 before you issue a certificate to a Master qualifying







Slocombe, cr-ex  
(Brisset)

1 him for the Lakes, he would have had to have some sea  
2 experience, or at least experience on board ship?

3 A. Oh, yes, quite definitely, and  
4 I think more than is required on the American side.  
5 But this is not necessarily in any particular stretch  
6 of water. We have aimed our certificates, our  
7 examinations at insuring that a man is able to go where  
8 he has never been before if he has the chance and the  
9 proper information.

10 Q. Now, Captain, insofar as the  
11 American requirements are concerned, in order to  
12 obtain, say, an A class pilot's licence for the Lakes,  
13 do you know the number of trips that a candidate has  
14 to have made; is it six or twelve?

15 A. I do not know this, Mr. Brisset.  
16 I tried to find this out some years ago and I do not  
17 recall whether I even got it.

18 Q. Are you at all events aware  
19 that these trips can be made as seamen?

20 A. They can be as observer, this  
21 is correct.

22 Q. Or as seaman on board a lake  
23 ship without actually handling the ship or having  
24 command of the ship, of course?

25 A. Oh, yes, without handling or  
26 having command. They are supposed to be able to be on  
27 the bridge observing, as I understand it.

28 COMMISSIONER SMITH: My Lord, I would like  
29 to ask the witness this question.

30 I do not have before me the





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Slocombe, cr=ex  
(Brisset)

1 International Boundary Waters Treaty and I am wondering  
2 if in that treaty there is provision in connection with  
3 the pilots on both sides going from domestic to foreign  
4 waters plying between in the international waters area  
5 and whether there is provision there to protect that  
6 particular situation?

7 THE WITNESS: I think the terms are  
8 quite wide terms, Mr. Smith. But there may be a  
9 mention there but nothing in the.... I think Mr. Jacques  
10 has the document there. Perhaps he could tell us.

11 MR. JACQUES: Yes. The treaty has been  
12 filed as Exhibit 1028 and I might read the first  
13 paragraph of Article I.

14 "The high contract parties agree  
15 that navigation on all navigable  
16 boundary waters shall forever  
17 continue free and open for the  
18 purposes of commerce to the  
19 inhabitants and to the ships,  
20 vessels and boats in both  
21 countries equally, subject however  
22 to any laws and regulations of  
23 either country within its own  
24 territory not inconsistent with  
25 such privilege of free navigation  
26 and applying equally and without  
27 discrimination to the inhabitants,  
28 ships, vessels and boats of both  
29 countries."

30 THE WITNESS: There is no specific mention







1 of pilotage, I believe, Mr. Smith.

2 COMMISSIONER SMITH: No. I would think  
3 that language is broad enough to cover pilots.

4 THE WITNESS: This would cause the  
5 concern of External Affairs about the compulsory payment  
6 feature.

7 DIRECT EXAMINATION BY MR. JACQUES:

8 Q. Question No. 5 -- How many  
9 permanent and temporary licences were in force in the  
10 District immediately prior to the 17th November, 1960?

11 A. Immediately prior to November  
12 17th, 1960 there were 58 licensed pilots in the St.  
13 Lawrence-Kingston-Ottawa District, of whom 16 were on  
14 temporary licences and 42 permanent licences. Included  
15 in these 42 permanent licences were the two pilots who  
16 were remaining of the CSL contract pilots.

17 When the District was cancelled,  
18 the pilots were given the opportunity to express their  
19 individual preference as to which portion of the river  
20 they wished to work in and 32 were then licensed for  
21 the Cornwall District with permanent licences and 24  
22 continued to work in the new Kingston District.

23 Q. Would you tell us what the  
24 difference was at that time between a permanent and a  
25 temporary licence?

26 A. Yes. When the 16 were taken on  
27 the possibility of their accepting government employment  
28 was still in the air, still not settled, and they  
29 were issued temporary licences on this understanding --  
30 that if the final decision was made the method of





Slocombe, dir.  
(Jacques)

1 employment would be changed and then of course they  
2 would be changed too.

3 Q. So that is the reason why they  
4 were issued temporary licences?

5 A. Yes.

6 CROSS-EXAMINATION BY MR. LALONDE:

7 Q. You just stated, Captain Slocombe,  
8 that the 24 Kingston pilots were issued temporary  
9 licences?

10 A. No, excuse me, Mr. Lalonde --  
11 16 of them. Those were the 16 who had just been  
12 taken on a few months previously. Is this not right?

13 Q. Well, I get 32 for Cornwall  
14 and 16 for Kingston, you say?

15 A. No; there were 24 appointed to  
16 Kingston but some of these who had been on a long time  
17 were given permanent licences.

18 Q. Out of the 24 Kingston pilots  
19 in the new District of Kingston you say eight got full-  
20 time licences and 16 temporary licences?

21 A. This is as I understand it, yes.

22 Q. Would you have a list on that?

23 A. Yes, but not here.

24 Q. I think you had better check with  
25 your staff on that matter. There seem to be some worries  
26 about that.

27 MR. JACQUES: I gathered the evidence  
28 was before the split there were 16 temporary licences  
29 but after the split everybody had a permanent licence?

30 THE WITNESS: I am sorry, My Lord, I am







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Slocombe, cr-ex  
(Lalonde)

1 confused. I was a little in error there; I evidently  
2 misunderstood something.

3 They were all given temporary  
4 licences until this decision was finally made, and  
5 then as soon as ---

6 MR. LALONDE: Q. The decision about  
7 their Civil Service status?

8 A. This is correct, and as soon  
9 as this was definitely settled and they had expressed  
10 their views quite strongly and the decision was made,  
11 they were given permanent licences then.

12 Q. So we have heard then that in  
13 Kingston the 24 would have been issued temporary  
14 licences only; is that correct?

15 A. Yes.

16 Q. While in the Cornwall District  
17 the 32 would have been given permanent licences?

18 A. This is correct.

19 Q. Do you know whether when the  
20 temporary licences were issued the 24 pilots concerned  
21 were advised that the licences were issued as temporary  
22 until the decision would be made about their status?  
23 Do you know whether they were advised of the reason  
24 why they were granted only temporary licences?

25 A. Oh, yes, I understood so.

26 Q. How were they told that?

27

28

29

30





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TORONTO, ONTARIO

Slocombe, ex-ex  
Lalonde

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1 Q. I might dispense with that question  
2 for the time being. I notice that it comes under  
3 question 2 of District No. 1 and that might give you  
4 time to find out whether the pilots were advised or not.

5 A. Yes.

6 Q. As to the reason for these  
7 temporary licences?

8 A. Yes.

9 Q. I am advised that there were,  
10 indeed, sixteen pilots holding temporary licences in  
11 the former Kingston District -- that out of twenty  
12 four eight had permanent licences?

13 A. Yes.

14 Q. And then when the additional  
15 District was made they were granted only temporary  
16 licences. These eight who had permanent licences  
17 before -- they were issued with temporary licences?

18 A. This is as I understood it, yes.

19 Q. Can you tell me what reason there  
20 was to issue a temporary licence to them? What was  
21 the necessity of issuing them temporary licences, even  
22 taking into account the decision which was considered  
23 in the meantime as to whether or not they should be  
24 made civil servants? Why could they not have been  
25 granted their permanent licences like they had before?  
26 Why did you have to withdraw the permanent licences that  
27 these men had and issue them with temporary licences  
28 only?

29 A. I think you have a good point,  
30 Mr. Lalonde, and I think that some of us felt the same







1 way at the time; but the decision was to issue temporary  
2 licences then. As you know, it didn't make any  
3 difference.

4 Q. You would agree with me that it  
5 certainly made a difference to the men who had permanent  
6 licences, who suddenly found themselves with only  
7 temporary licences. You would agree with me on that?

8 A. Well, it made a difference in the  
9 piece of paper they held.

10 Q. And you know it also makes a  
11 difference when you have a temporary as against a  
12 permanent licence?

13 A. I don't think that a temporary  
14 licence can be withdrawn any more easily than a permanent  
15 one, except that it comes to the end of the term.

16 Q. Yes; the temporary licence has a  
17 term in it, while the permanent licence is not issued  
18 every year, is it?

19 A. This is so.

20 Q. And could it be that these permanent  
21 licences were withdrawn and temporary licences issued  
22 to these men in order to bring pressure on them to  
23 join the civil service status -- in other words, to  
24 make them feel more insecure?

25 A. I think I can answer that with an  
26 unequivocal No, Mr. Lalonde.

27 Q. How do you know when the decision  
28 was made above you to issue temporary licences, and,  
29 it seems, against your own wishes? --  
30





1 MR. MACGILLIVRAY: Do you really  
2 want him to answer the question if he doesn't know  
3 the answer?

4 MR. LALONDE: I want to know why he  
5 gave the answer.

6 MR. MACGILLIVRAY: I don't know why  
7 the question was asked.

8 MR. LALONDE: I think the point is  
9 clear.

10 MR. JACQUES: Q. Under section 2,  
11 operations of sailing masters above Kingston, we are  
12 now dealing with the district between Port Weller and  
13 Sarnia. It appears from the evidence that the  
14 Shipping Federation requested D.O.T. to assume  
15 despatching responsibility but that during the first  
16 year the D.O.T. had seen fit not to assume despatching  
17 responsibilities?

18 A. The Department was not anxious to  
19 extend its responsibilities to pilotage responsibilities,  
20 particularly under the circumstances of Part VI.

21 Q. That is the only reason?

22 A. Yes.

23 Q. Then, one year afterwards, it took  
24 over the despatching responsibility. Why the change  
25 of heart in 12 months?

26 A. By that time the Shipping  
27 Federation had a good chance to show how they could  
28 work it and they were still asking the Department to  
29 take it over.

30 Q. And with regard to the application







1 of the Shipping Act the Department saw no difference  
2 at that time between the Great Lakes basin and all  
3 the other waters of Canada?

4 A. There was at that time no legal  
5 basis for doing it any other way.

6 Q. But the Department saw no  
7 difference between the waters of the Great Lakes and  
8 the other waters of Canada? It treated them equally,  
9 on the same basis, on the same footing?

10 A. Yes; we didn't treat it at all --  
11 the Great Lakes; we had no pilotage district there.

12 Q. Yes; but because of the nature  
13 of the Great Lakes, where you had a boundary running  
14 in the centre of the Great Lakes...

15 A. Excuse me. This is a feature  
16 in any district. This comes in the next question,  
17 Mr. Jacques -- in what way did the proposed establish-  
18 ment of Port Weller-Sarnia differ from the establish-  
19 ment of the St. Lawrence-Kingston-Ottawa district insofar  
20 as the provisions of the Canada Shipping Act are concerned

21 Q. Yes?

22 A. Well, a new district covering  
23 the district between Port Weller and Sarnia would  
24 have had certain objectionable features that the  
25 St. Lawrence-Kingston District had. We could only  
26 make a district comprising Canadian waters, and yet  
27 the ships had to go through American waters in order  
28 to navigate through the district. This was the  
29 anomalous position in the St. Lawrence-Kingston-Ottawa  
30 district for many, many years.

Q. Yes; and with respect to the next





1 sub-question which relates to the discussion, did  
2 the Department consider -- I think it is clear -- the  
3 creation of a district in Canadian waters only -- that  
4 is, the Welland Canal?

5 A. Yes; this was considered, but the  
6 decision was taken eventually, after much discussion,  
7 to treat the whole of the Great Lakes basin as one  
8 under the new legislation.

9 Q. But at that time was there any  
10 negotiation with the United States with respect to  
11 pilots on the Great Lakes?

12 A. Talk had been going on for years;  
13 but we didn't know at that time just what was going to  
14 happen.

15 Q. Why, then, did the Department not  
16 create a district with the Welland Canal?

17 A. Well, this might have had re-  
18 precussions on the American side.

19 Q. In what respect?

20 A. American pilots had been permitted  
21 to go freely through the Welland Canal.

22 Q. Sailing masters?

23 A. American ships had been going through  
24 without pilots, if you like; and if the Welland Canal  
25 had been cut off -- if Americans had been cut out of the  
26 Welland Canal -- there would have been bound to be the  
27 question as to whether or not Canadians would be  
28 permitted to go through Lake Michigan, for instance,  
29 which is a very much bigger volume of water, with many  
30 more ports.







1 Q. Yes; but Lake Michigan come under  
2 the Boundary Waters Treaty, whereas the Welland Canal  
3 does not. The Welland Canal is not a boundary water?

4 A. I don't think we consider the  
5 Welland Canal as being any different in that respect.

6 Q. I see; and were not the same  
7 masters -- the American sailing masters -- taking ships  
8 through the St. Lawrence-Kingston-Ottawa district?

9 A. Yes.

10 Q. They were?

11 A. Yes; we had no objection to the  
12 Americans going down any more than they objected to  
13 our men on their side.

14 Q. But after the creation of the  
15 district were the American sailing masters allowed to  
16 take ships through the St. Lawrence-Kingston-Ottawa  
17 district?

18 A. The St. Lawrence-Kingston-Ottawa  
19 district from 1934 on... You are speaking of the old  
20 St. Lawrence-Kingston district?

21 Q. Yes?

22 A. We had never raised any objection;  
23 and this was, again, an anomalous situation. This is  
24 part of the objectionable features. We could not  
25 enforce the provisions of the Canada Shipping Act in  
26 that respect without our having been cut out of the  
27 American side.

28 MR. JACQUES: Thank you.

29 CROSS-EXAMINATION BY MR. LALONDE

30 Q. In 1958 the Department of Transport





1 did not agree to the request of the Shipping Federation  
2 to establish a district in Port Weller-Sarnia; is that  
3 correct?

4 A. This is correct.

5 Q. Now, is it true that in April 1958  
6 Captain Jones, accompanied by Captain Downey and  
7 Captain Matheson, visited the area in order to set up  
8 the pilot boat service in Sarnia?

9 A. I think this is in evidence already.

10 Q. Yes; and you would agree with that  
11 statement? You wouldn't contest that statement?

12 A. No.

13 Q. Would this be an indication that  
14 even at that time the Department was seriously considering  
15 setting up the Port Weller-Sarnia district, early in  
16 1958?

17 A. Not as a district, Mr. Lalonde.

18 Q. Or setting up a limited or specific  
19 pilotage service and the replacing of the sailing  
20 masters' operations?

21 A. We were trying to assist, so far  
22 as possible, in keeping things going, without getting  
23 the same kind of set up on the lakes that they had  
24 below.

25 Q. And were the sailing masters  
26 advised at that time, early 1958, of the various steps  
27 taken by the Department, or of the various moves  
28 considered by the Department?

29 A. In 1958 they were at that time  
30 the employees of the Shipping Federation.





1 Q. Yes; they were under contract with  
2 the Shipping Federation?

3 A. I don't remember what contact we  
4 had with them at that time.

5 Q. You might consult with Captain  
6 Jones. I see his head shaking a big "No."

7 A. As I thought, we did not contact  
8 them.

9 Q. You didn't have any contact with  
10 the sailing masters?

11 A. I don't think so.

12 Q. Were you aware that they were  
13 organized as an association at the time?

14 A. Yes; we were told so by the Shipping  
15 Federation.

16 Q. But you didn't find it proper or  
17 necessary to contact the association to have their  
18 views at that time; is that correct?

19 A. Not officially, no.

20 Q. Even unofficially?

21 A. Well, it had to be officially if  
22 we did it, I suppose.

23 Q. Reflecting upon it six years later  
24 would you consider that it might have been a good idea  
25 if consultations had been carried on at that time with  
26 the sailing masters in trying to elaborate a system  
27 which would have been satisfactory to all concerned? --

28 MR. MACGILLIVRAY: I wonder if Captain  
29 Slocombe's opinion on this matter is of any particular  
30 value at this time?







1 MR. LALONDE: I don't even need an  
2 answer now.

3 MR. BRISSET: I quite agree with the  
4 objection. There were many interests at the time  
5 who wanted the ocean ships out of the lakes and not in  
6 the lakes.

7 MR. LALONDE: Certainly not the  
8 sailing masters.

9 MR. BRISSET: Strange as it may seem,  
10 that was the impression.

11 Captain, when Captain Jones attended  
12 at Port Weller-Sarnia, wasn't it as an observer more  
13 than to assist in any way?

14 THE WITNESS: I think, perhaps, that  
15 is what it was, Mr. Brisset; and certainly we did want  
16 to know what was going on. But we were not taking  
17 any direct action in this.

18 MR. BRISSET: And with the welfare  
19 of the pilots in mind -- as the Department always has --  
20 it was to make sure that the pilot boats were proper  
21 for the service?

22 THE WITNESS: I think that is a fair  
23 statement.

24 MR. BRISSET: And, in fact, some  
25 difficulties were created over the choice made by the  
26 Shipping Federation of the pilot boats to serve the  
27 district?

28 THE WITNESS: There were always  
29 difficulties.

30 MR. LALONDE: You were there as an





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1 observer of what?

2 THE WITNESS: Of what the Shipping  
3 Federation was doing.

4 MR. LALONDE: And is Captain Jones  
5 responsible for the inspection of pilot boats, or do  
6 you have a different service in the Department, which  
7 looks after that?

8 THE WITNESS: The actual inspections  
9 that require inspection certificates -- that would be  
10 the Steamship Inspection Division.

11 MR. JACQUES: Q. Question No. 2  
12 is quite long and I shall leave you to start your  
13 answer as you see fit, please?

14 A. "When and how many pilots are  
15 employed by the Department as prevailing rate employees?"  
16 I think I will answer several at the same time on this,  
17 Mr. Jacques.

18 Q. If you please.

19 A. The second one is: How were  
20 they selected for employment? What information was  
21 given those selected concerning the terms and conditions  
22 of their employment? Were they issued pilots'  
23 licences or certificates, and so on? Was the pilotage  
24 service then provided under section 18 of the Financial  
25 Administration Act, or some other legislative provision?

26 I can file here a sheet showing the  
27 competition for the pilots, the total number of  
28 applications being 178; of these, 101 applications were  
29 rejected; 70 applicants were interviewed and rated;  
30 and there were seven candidates who did not attend.







1 The second sheet shows the lists,  
2 newspapers, in which the advertisement for pilots was  
3 issued. Is there anything else?

4 Q. Not necessarily, except that I  
5 note that you did not publish your advertisement in  
6 any of the local Quebec City papers.

7 A. Not Quebec City, but in Le Devoir,  
8 La Presse, Gazette, and the Gazette in Montreal.

9 MR. LALONDE: Where is Quebec City?

10 THE CHAIRMAN: Le Devoir reaches there.

11 THE WITNESS: And the third sheet gives  
12 the names, lists of names, of the pilots who were  
13 appointed in the season of 1959.

14 MR. JACQUES: Q. I see the list includes  
15 a list of permanent pilots and a list of casual pilots.  
16 Will you explain the difference?

17 A. Well, we were only able to  
18 provide for a certain number of permanent positions.

19 Q. Why was that? Who had fixed  
20 the number of permanent positions that you were allowed?

21 A. Well, this was done by discussions  
22 with Personnel Branch and the Department and Treasury  
23 Board staff. All I can say is we were not able to get  
24 any more at the time than the number that we have here  
25 listed as being appointed as permanent employees.

26 Q. You don't know what reasons they  
27 gave for limiting the number of permanent employees?

28 A. Just the reluctance of Treasury  
29 Board who approves new positions in the government  
30 service. We were able to provide for a number of casual





Slocombe, dir  
(Jacques)

1 positions so that we could take care of the necessary  
2 rates.

3 Q. And the list that you have there  
4 is valid as of that date? Is that the final results  
5 of the examination?

6 A. These were during the year 1959.

7 Q. During the year 1959?

8 A. Yes. There was one man who  
9 decided that he didn't like it on August 13, and he  
10 resigned and took employment outside.

11 MR. JACQUES: You might file these  
12 documents in a bundle as Exhibit?

13 THE SECRETARY: 1393.

14 MR. JACQUES: Described as data concerning  
15 the recruitment of pilots for the Port Weller-Sarnia  
16 area in 1959 with the names of pilots engaged in that  
17 District in the 1959 season.

18 A. This is correct.

19 ---EXHIBIT NO. 1393: Data concerning the recruitment of  
20 pilots for the Port Weller-Sarnia  
21 area in 1959, with names of pilots  
engaged in that District in the  
1959 season.

22 THE WITNESS: How were they selected  
23 for employment? They were selected by a Board consisting  
24 of representatives of the Pilotage Headquarters staff  
25 and Personnel Branch, with Captain N. S. Johnston as  
26 an outside impartial and disinterested person, with  
27 technical knowledge of the area concerned.

28 Q. Tell me how was this gentleman  
29 chosen for this job?

30 A. Well, this gentleman had written





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(Jacques)

1 to the Minister applying for appointment to run pilotage,  
2 and he was told there was no such position, but when  
3 we needed somebody to assist in the Examining Board --  
4 this was soon after this letter from Captain Johnston  
5 had appeared on the files, and I thought that he would  
6 be a good choice because he was a man who was  
7 knowledgeable of the Lakes. He was not a pilot although  
8 he had held one of the old pilot's licences in the St.  
9 Lawrence-Kingston District, and he was a steady  
10 citizen, and I felt that he would be a good man for  
11 this Examining Board as an outside person who didn't  
12 have any interest in pilotage.

13 Q. I see. So there were three  
14 members on that Board.

15 A. One from the Pilotage Headquarters  
16 and one from Personnel and Captain Johnston.

17 Q. Three men. Can you tell us how  
18 they proceeded to do their recruiting or their exam-  
19 ination or what questions they asked of the applicants?

20 A. Well, there wasn't exactly an  
21 examination in the sense of a technical examination,  
22 but their experience was checked and they were questioned  
23 on their experience.

24 Q. How was it checked?

25 A. With the documents, whatever  
26 documents they had. Testimonials and documents. They  
27 were rated according to their experience.

28 Q. I see. Was there a medical  
29 examination?

30 A. Yes, there was.







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(Jacques)

1 Q. There was a medical examination  
2 and they were interviewed by this Board?

3 A. Right.

4 Q. Would you know the terms of  
5 reference of that Board? They were interviewing, and  
6 I presume they had already inspected the records of  
7 these applicants, and what was the purpose of the  
8 interview?

9 A. Well, personal suitability was  
10 one of the features, one of the factors to be taken  
11 into consideration.

12 MR. LALONDE: What?

13 THE WITNESS: Personal suitability,  
14 manner, dress and so on. It would have an effect.

15 MR. JACQUES: Q. Had the Board received  
16 any detailed instructions or detailed questions to  
17 ask of them?

18 A. No, I wouldn't say so, no.

19 Q. Now, what information was given  
20 those selected for employment?

21 A. I have here, which I will file,  
22 Mr. Jacques, if it has not already been filed, a  
23 sheet showing -- it is called "Information Policies and  
24 Regulations for Ships' Pilots in the Port Weller-Sarnia  
25 Area".

26 Q. What is the date of that  
27 document?

28 A. This is dated the 7th of April,  
29 1960.

30 Q. But these gentlemen were inter-





Slocombe, dir  
(Jacques)

1 viewed early in 1959. I believe in April, 1959.

2 A. Mr. Jacques, I have written this  
3 date on here. I thought I had it correctly from  
4 somewhere.

5 Q. Would you check because similar  
6 documents have been filed with the Commission already.  
7 It appears that there might be one issued every year.  
8 We have some for 1960 and 1961 and 1962, and there  
9 are changes in each and every one of those.

10 A. I am assured that this is the  
11 first one which was handed out to these first employees  
12 in 1959.

13 Q. So the date which is written  
14 in ink on the third page would not be exact?

15 A. No, I'm afraid not.

16 MR. LALONDE: There is evidence to the  
17 contrary that in 1959 no document was given to the  
18 pilots; no documents of this type at least. If you  
19 are sure that it was issued, I will certainly accept  
20 it.

21 THE WITNESS: Captain Jones says that  
22 he is sure.

23 MR. JACQUES: Q. Then I see, My Lord,  
24 that attached to these documents there is a receipt  
25 which reads in part as follows: "I hereby acknowledge  
26 receipt of a copy of the Department of Transport  
27 circular entitled Information Policies and Regulations  
28 for Ships' Pilots Port Weller-Sarnia Area, and agree to  
29 abide by and accept all regulations therein."

30 You must have on your file,







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(Jacques)

1 Captain --

2 THE CHAIRMAN: What is the date?

3 MR. JACQUES: Q. There is no date. It  
4 is a blank form, My Lord. You must have on your files  
5 the originals of these documents which apparently  
6 were to be signed by each and every one of the pilots?

7 A. We can look on the file again.

8 THE CHAIRMAN: This can be verified  
9 later.

10 MR. JACQUES: We will hold the question  
11 in abeyance and we will hold the filing of this  
12 document in abeyance.

13 THE CHAIRMAN: And you will keep a  
14 note of it.

15 MR. JACQUES: Yes, My Lord, as I always  
16 do.

17 THE CHAIRMAN: I know.

18 THE SECRETARY: For the information of  
19 the witness, the reference to which Mr. Lalonde indicated  
20 is mentioned at questions 21 to 23, page 15796.

21 MR. JACQUES: And I will quote from this  
22 volume. This is the evidence of Captain Stevenson:

23 "Q. Was there any document given  
24 in 1959?

25 A. To the permanent employees?

26 Q. No, to you; I am talking  
27 about you?

28 A. No; I do not think there was  
29 any document given in 1959 to me,  
30 no. In 1960, yes.





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(Jacques)

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Q. Is that when you became permanent?

A. That is when I became permanent, yes.

Q. Back in 1959 you say nobody ever gave you any document containing your terms of reference or your conditions of employment?

A. No -- 1960.

Q. 1960?

A. Yes.

Q. In the interview which you had in 1959 or the examination, let us say, you were told nothing about the conditions of employment?

A. Nothing whatsoever, no."

THE CHAIRMAN: So this will be verified.

Is there any further question on this matter? That can be verified with the pilots' files to find out whether they have any receipts dated in 1959.

CROSS-EXAMINATION BY MR. LALONDE:

Q. Captain Slocombe, you stated that medical examinations were carried. Were medical examinations carried out? Were medical examinations carried out before the men were selected, or after?

A. We can't be sure before they actually started work. Some of them -- with a number of men like this, it would take some time to arrange with the doctors and so on.

Q. In effect is it fair to assume





1 that at least some of them were appointed before they  
2 had their medical examination?

3 A. I think it is quite possible.

4 Q. Would it be fair to state that  
5 in effect medical examinations took place only in 1960  
6 and not in 1959?

7 A. I can't vouch for this. I  
8 don't know yet.

9 Q. You have no record whatever in  
10 your files which would indicate when these people  
11 were required to have a medical examination? No  
12 correspondence or anything?

13 A. There must be in the files.

14 THE CHAIRMAN: In the personal files  
15 there would be a medical report, I suppose, so when you  
16 look for the receipts, you can look also for the  
17 medical report.

18 MR. LALONDE: Q. I am instructed and it  
19 may help you, that in 1960 all the pilots went for a  
20 medical examination and then afterwards, appeared  
21 before Captain Leesk to take an oath of allegiance,  
22 an oath of secrecy. I don't know secrecy of what, but  
23 they had to take that oath. So if you will check into  
24 this matter.

25 Is an oath of secrecy required  
26 for all prevailing rate employees?

27 A. I don't know, Mr. Lalonde.

28 MR. JACQUES: That would be a reason why  
29 it is so hard to find out things.

30 MR. LALONDE: Q. Would you check into







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Slocombe, cr-ex  
(Lalonde)

1 this matter and bring over this oath of secrecy if  
2 there is such a thing, and if such a thing was required  
3 from the prevailing rate employees? You will look into  
4 this?

5 A. I am told they are no different  
6 from any other government employees. I don't remember  
7 ever taking any oath of secrecy myself, but I may have  
8 30 years ago.

9 Q. Would you bring along the oath  
10 of secrecy?

11 A. Yes.

12 Q. Now, you say Treasury Board were  
13 reluctant to approve more government employees than  
14 the number which was approved as permanent, and then  
15 we have a list of casuals.

16 Now, how did Treasury Board come  
17 to the conclusion that you were entitled to have --

18 MR. MACGILLIVRAY: I don't think the  
19 witness is entitled to answer on behalf of the Treasury  
20 Board, My Lord.

21 MR. LALONDE: Q. That you were entitled  
22 to have 16 or whatever it is permanent employees. In  
23 order to help my friend, Mr. Macgillivray, in his  
24 objection, I will say, were you contacted by Treasury  
25 Board on whether you should require 25 or 26 or 28 or 24  
26 permanent employees?

27 A. Somebody in the Department was.  
28 It could be Personnel people would contact Treasury  
29 Board people.

30 Q. But not you?





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1 A. Personnel people would discuss  
2 it with us, of course, but we could say we were crystal  
3 ball gazing at the time and we couldn't give a  
4 definite statement that this number were going to be  
5 required. We wanted to get as many as we could.

6 Q. How many did you require?

7 A. I don't know.

8 Q. How did you arrive at the number  
9 you wanted to have? Just crystal gazing?

10 A. We had to make some kind of a  
11 judgment on the traffic that we expected and the use  
12 of the pilots.

13 Q. You have no record whatever  
14 which would show how many you did require or how you  
15 arrived at the figure?

16 A. No, all we had as a guide was  
17 the number that had been employed by the Shipping  
18 Federation, and I forget how many that was, but this  
19 was all we had to go by, and with guessing how many  
20 more we might require --

21 Q. How many did you require, do  
22 you know?

23 A. I don't know.

24 Q. Would you check into this matter,  
25 please?

26 A. I don't know that we would be  
27 able to find that now.

28

29

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Slocombe, cr-ex  
(Lalonde)

1 I cannot tell you what we asked for. What we got  
2 was the number shown on that list.

3 Q. And you have no direct contact  
4 personally with Treasury Board as to the number you  
5 should obtain; is that correct?

6 A. Not we, not in my Division, no.

7 Q. As far as the Personnel people  
8 were concerned had they had anything to do with pilotage  
9 in the area before?

10 A. No.

11 Q. Do you know whether the Personnel  
12 people made any special investigation in the area  
13 as to what kind of services would be required?

14 A. No; they had to take our word  
15 for this, and we told them.

16 Q. Whatever information they got,  
17 they obtained it from you?

18 A. That is correct.

19 Q. Then they negotiated with  
20 Treasury Board without your presence or without your  
21 help directly?

22 A. Yes, I would say so.

23 Q. Then you were given a report by  
24 Treasury Board that you were entitled to have so many  
25 permanent employees?

26 A. I think this is pretty well  
27 what happened.

28 Q. And that was the end of it?

29 A. Yes.

30 MR. JACQUES: Could you check as thoroughly





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(Lalonde)

1 as possible to find out the number of pilots on  
2 permanent position and/or casualties which your Division  
3 suggested to Personnel?

4 THE WITNESS: I can see but I doubt very  
5 much if we could find it.

6 MR. JACQUES: According to the Glasco  
7 Commission the Department has tons and tons and tons  
8 of records.

9 THE WITNESS: This makes it more difficult  
10 to find it.

11 MR. JACQUES: Surely the Department has  
12 not destroyed that only one record.

13 THE CHAIRMAN: Are there any further  
14 questions on this matter?

15 MR. BRISSET: Just one question, My  
16 Lord, if I may?

17 THE CHAIRMAN: Right.

18 CROSS-EXAMINATION BY MR. BRISSET:

19 Q. Captain, are you aware that this  
20 solid citizen, Captain Johnston, is still interested in  
21 pilotage?

22 A. I am very well aware of it, Mr.  
23 Brisset.

24 Q. Did he send you a copy of the  
25 letter he wrote us a few weeks ago?

26 A. No, we have not seen that.

27 MR. LALONDE: Neither have I.

28 MR. BRISSET: I might quote just one  
29 paragraph.

30 MR. LALONDE: I object, My Lord -- whatever





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1 it is. Since this is a morning for objections I want  
2 to register an objection. Captain Johnston is not here.  
3 We have no evidence whatsoever on what this letter is  
4 about and whether it was written by Captain Johnston  
5 or not.

6 MR. BRISSET: I think I can satisfy my  
7 friend that it was written by Captain Johnston.

8 THE CHAIRMAN: In any event it is signed  
9 by somebody calling himself Captain Johnston so for what  
10 it is worth it is all right; you can go on.

11 MR. BRISSET: Q. "In the national interest  
12 and good pilotage in general on  
13 the Great Lakes I am writing this  
14 letter to you.

15 As I look out from my home  
16 here on the Lake Ontario shoreline  
17 three miles west of Port Weller,  
18 where I have a panoramic view of  
19 180 degrees from the east-north-  
20 east to the west-southwest I see  
21 many ships being delayed unneces-  
22 sarily 24 hours and longer waiting  
23 for registered pilots, which is  
24 the result of the dispatching  
25 office exercising a monopoly  
26 stranglehold set up by the DOT.  
27 What a national disgrace!

28 In my opinion this is the  
29 result of a bungling bureaucracy ..  
30 ... " and so on.







1 Is that the type of interest  
2 the gentleman was showing at the time you employed him?

3 A. This is the kind of disinterest  
4 -- impartial disinterest. No, at the time of the  
5 examination I should say there was no question of  
6 Captain Johnston being partial in any way.

7 MR. MACGILLIVRAY: He was still hoping  
8 to get a job with DOT.

9 THE CHAIRMAN: We will now adjourn for  
10 a few minutes.

11 ---SHORT RECESS.

12

13 ---UPON RESUMING:

14 DIRECT EXAMINATION BY MR. JACQUES:

15 Q. Captain, I understand that  
16 Mr. Baxter will be available to explain how an  
17 establishment is arrived at and the procedure in order  
18 to obtain an increase in the establishment?

19 A. Yes.

20 MR. LALONDE: None the less, My Lord,  
21 the specific question which I put I would like to have  
22 answered in connection with the special events in  
23 Port Weller/Sarnia. We have in evidence that ships  
24 were delayed, there were shortages of men and they  
25 complained they were overworked during that time. I  
26 think it is pretty useful to know how in the specific  
27 instances the matter was arrived at.

28 THE WITNESS: Yes, My Lord.

29 MR. JACQUES: Q. The next sub-question --  
30 Were the pilots, or the applicants, I should say, who





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(Jacques)

1 had been chosen issued a pilot's licence or a  
2 certificate of some sort?

3 A. Yes; they were issued what might  
4 be called an identity certificate -- a certificate of  
5 authorization to pilot. Here is a sample of it.

6 MR. JACQUES: I should like to file this  
7 as Exhibit 1394 -- pilot's certificate issued to pilots  
8 in the Port Weller/Sarnia area.

9 ---EXHIBIT NO. 1394: Pilot's certificate issued to  
10 pilots in the Port Weller/Sarnia  
area.

11 Q. Now, do you know if this  
12 certificate was issued in 1959?

13 A. Yes, that was the one that was  
14 issued in 1959.

15 Q. There is no date on it.

16 A. We have one in little better  
17 shape now, in laminated form.

18 MR. LALONDE: Were these certificates  
19 issued even to casual employees in 1959?

20 THE WITNESS: Oh, yes.

21 MR. LALONDE: Do your records show that  
22 in effect they were issued in 1959? Do you know  
23 whether your records show when these certificates were  
24 issued in effect?

25 THE WITNESS: We would have to search  
26 and establish this.

27 MR. LALONDE: I am instructed, for  
28 instance, that in the case of Captain R. A. Stevenson  
29 he got his certificate on the 19th April, 1960, which  
30 is the date which appears on his certificate which I have







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1 with me now. I understand that he was employed as a  
2 casual employee in 1959 and he had no certificate. I  
3 would like to know whether this rule was followed  
4 generally or whether you have any record which would  
5 show, for instance, Captain Stevenson was issued a  
6 certificate in 1959?

7 THE CHAIRMAN: So the permanent ones  
8 or the casual ones had been issued in 1959 with such  
9 a certificate?

10 MR. LALONDE: Yes; it may be that only  
11 the permanent employees got such certificates. But  
12 I have the case of certainly at least one employee who  
13 was a casual in 1959 who claims he never had any  
14 certificate.

15 THE WITNESS: Well, I would not doubt  
16 this if Captain Stevenson says so. But if it is in  
17 our files we will find it.

18 MR. JACQUES: Q. I might draw the  
19 attention of the witness to the evidence given by  
20 Captain Crawford at page 14768, Volume 117. Captain  
21 Crawford was being examined then by Maitre Lalonde  
22 and after the recess he made the following statement,  
23 and I quote:

24 "My Lord, may I make a correction  
25 on a statement that I made  
26 involving the pilots' licences?  
27 The first licence that was issued  
28 to us was 1960 and the next one  
29 was 1961."

30 Now I do not know whether Captain Crawford





1 was then a permanent employee or a casual employee. I  
2 note from Exhibit 1393 that Captain Crawford was, in  
3 fact, a permanent pilot in 1959.

4 A. May I suggest that the card that  
5 Captain Stevenson has there....May I look at it a  
6 moment?

7 MR. JACQUES: I think the argument will  
8 fall flat on its face, My Lord, because the card bears  
9 the mention that it was printed in 1960, so this is  
10 certainly not a duplicate of a card which was issued  
11 in 1959. But there might have been a first printing  
12 of the card in 1959, I do not know.

13 THE CHAIRMAN: So Exhibit 1394 was  
14 printed in 1960?

15 MR. JACQUES: Yes, My Lord.

16 THE WITNESS: I am not able to answer  
17 that now. I thought there was something that they  
18 were given when they started and I thought this was  
19 what they were given.

20 THE CHAIRMAN: In any event I think the  
21 best way would be to verify it.

22 THE WITNESS: I will see if we have the  
23 records.

24 THE CHAIRMAN: If you do not have any  
25 record we will leave the evidence the way it is now.

26 CAPTAIN SEELEY: My Lord, I would like to  
27 say that this has been referred to as a licence. This  
28 was not a licence; it was an identity card -- nothing  
29 else except an identity card.

30 THE CHAIRMAN: There was no licence on





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1 the Lakes? Is there any licence?

2 CAPTAIN SEELEY: There is a registration.  
3 They are registered pilots now.

4 THE CHAIRMAN: And they have a certificate  
5 to that effect?

6 CAPTAIN SEELEY: That is right.

7 THE CHAIRMAN: Apart from this one,  
8 Exhibit 1394?

9 CAPTAIN SEELEY: Yes.

10 COMMISSIONER RENWICK: Are these cards  
11 numbered?

12 CAPTAIN SEELEY: Yes.

13 MR. LALONDE: My Lord, may I say that  
14 in 1959 and 1960 there was no such thing as registration,  
15 I assume, because the Great Lakes Pilotage Act was not  
16 in effect.

17 THE WITNESS: This is correct. In 1961  
18 the first registration certificates were issued.

19 MR. JACQUES: The card, Exhibit 1394, is  
20 called a certificate and it bears no number except that  
21 there is a space for the pilot number. The card itself  
22 has no number.

23 Q. The next question is, was the  
24 pilotage service then provided under Section 18 of the  
25 Financial Administration Act or some other legislative  
26 provision?

27 A. Under Section 18 of the Financial  
28 Administration Act.

29 MR. JACQUES: Thank you.

30 MR. MACGILLIVRAY: I think Section 18







1 of the Financial Administration Act only authorizes  
2 the Governor-In-Council to prescribe fees for services  
3 provided by the Department. The services are provided  
4 by the Department. Probably the authority for them,  
5 if legislative authority is needed, is the item in  
6 the Appropriations Act which provides money for the  
7 purpose.

8 THE WITNESS: I stand corrected.

9 MR. JACQUES: While we are discussing  
10 this question I might ask Maitre Macgillivray whether  
11 he does not think that there should be, apart from the  
12 provision in the Appropriations Act, any step taken  
13 under Section 7 of the Department of Transport Act,  
14 paragraph 3?

15 MR. MACGILLIVRAY: I would not think so,  
16 My Lord. The Department of Transport, as with any other  
17 government Department, provides a great many services --  
18 aids to navigation, ice-breaking and this pilotage  
19 service among many others -- and it is not necessary  
20 that there be a specific reference in the Department of  
21 Transport Act saying that these are services that the  
22 Department may provide. Parliament votes money for the  
23 purpose of providing an ice-breaking service or piloting  
24 service and the Minister goes ahead and provides it.

25 MR. JACQUES: So if I understand correctly  
26 the Minister of Transport could tomorrow decide to  
27 provide a particular service in Canada and the only thing  
28 he has to do is to see that he has the money to do it  
29 with the Appropriations Act?

30 MR. MACGILLIVRAY: Oh, I presume that it





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1 would have to be a service that it is within the  
2 constitutional field of a federal Parliament to legislate  
3 on. But I think that is correct. As long as money was  
4 voted for it he could do it. We have a large Division  
5 in the Department of Transport providing meteorological  
6 services and they are not mentioned in any statute  
7 whatsoever except in the annual Appropriation Acts.

8 COMMISSIONER SMITH: Yes, and furthermore,  
9 Mr. Macgillivray, I think that the appropriation in the  
10 estimates becomes an Act of Parliament when it is  
11 passed.

12 MR. MACGILLIVRAY: Yes, Mr. Smith.

13 MR. JACQUES: Q. At that time, in 1959,  
14 when you were providing services, there was no  
15 provision in your law or no regulation which prevented  
16 other people from rendering the same services?

17 A. This is correct.

18 Q. That is correct, so you could  
19 have had competition from other groups of pilots?

20 A. Oh, yes.

21 Q. Or the Shipping Federation, I  
22 am told.

23 We might move to the next sub-  
24 question -- were there any pilotage by-laws or  
25 regulations issued to govern the service in that area?

26 A. The only regulation we have is  
27 that made by Order-In-Council PC59-1086 of the 20th  
28 August, 1959. It is entitled Regulations Respecting  
29 Pilotage in the Port Weller/Sarnia Area.

30 Q. And this covers only the charges





Slocombe, dir  
(Jacques)

1 which are to be made by the government?

2 A. Yes, this is correct.

3 Q. And it is adopted under Section  
4 18 of the Financial Administration Act?

5 THE CHAIRMAN: So you will file that  
6 as 1395?

7 MR. JACQUES: 1395, My Lord.

8 ---EXHIBIT NO. 1395: Order-In-Council PC59-1086, dated  
9 20th August, 1959.

10 MR. JACQUES: Q. And there was nothing  
11 else, no other regulations at all?

12 A. No, sir.

13 Q. The Shipping Federation brief,  
14 Exhibit 1213, page 38, the bottom paragraph, makes  
15 mention, and I quote:

16 "In August the Department of  
17 Transport issued proposed regu-  
18 lations respecting pilotage in the  
19 Port Weller/Sarnia area which  
20 eventually were adopted on August  
21 20th" -- of course of 1959?

22 A. That is the one referred to.

23 Q. That is the one referred to;  
24 thank you.

25 CROSS-EXAMINATION BY MR. LALONDE:

26 Q. Do I understand that in the  
27 meantime, from April to August, the charges which were  
28 made to the ships were not made under any provision,  
29 any by-law?

30 A. I assume this is the case.







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1 Q. Was there any change in the  
2 method of collection or where the payments were to be  
3 made before and after that particular by-law? Was  
4 the money paid over to the Receiver General of Canada  
5 or somebody else?

6 A. No. The Receiver General of  
7 Canada, yes, anything that was collected.

8 DIRECT EXAMINATION BY MR. JACQUES:

9 Q. Was there any money collected  
10 prior to August 20th, 1959 for pilotage services in  
11 the area?

12 A. Oh, yes, there was.

13 Q. And who actually did the  
14 collecting?

15 A. I am told it was done from  
16 Ottawa.

17 Q. Direct from Ottawa?

18 A. Yes.

19

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1 MR. MACGILLIVRAY: Would there have  
2 been any difference -- any change made -- in the  
3 collection procedure by reason of the issue of an  
4 Order-in-Council?

5 THE WITNESS: No; I don't think there  
6 was any intention to have any change.

7 MR. MACGILLIVRAY: If I may comment,  
8 My Lord, the reason we get an Order-in-Council in  
9 connection with services rendered by the Department is  
10 simply as an aid to collection.

11 If the Department renders services of  
12 any sort, including pilotage services, it is entitled  
13 to fair remuneration for that service, and if someone  
14 fails to pay and there is no agreement -- if they are  
15 not collectable under contract because there has been  
16 no agreement -- if they fail to pay then we may go  
17 into court and prove it on the basis of quantum meruit.

18 THE CHAIRMAN: It was not on account of  
19 the compulsory pilotage, but...

20 MR. MACGILLIVRAY: No. The only  
21 purpose of obtaining the regulations under the Financial  
22 Administration Act is to obviate the necessity of  
23 contracting in each case for the shipowner to pay the  
24 prescribed rate.

25 MR. JACQUES: Q. The despatching was  
26 done by Captain Crawford, as was done when the Shipping  
27 Federation was administering it?

28 A. At that time, yes.

29 THE CHAIRMAN: Mr. Brisset?

30





1  
2 CROSS-EXAMINATION BY MR. BRISSET

3 Q. Captain, do you recall that the  
4 Shipping Federation, in the year 1958, had instituted  
5 a system of inspection of ships going into the Great  
6 Lakes, which inspection was carried out in Montreal;  
7 and that such inspection was taken over by the Steamship  
8 Inspection Branch of the Department of Transport in  
9 1959, after commencing operations in the Port Weller-  
10 Sarnia district? Do you recall that?

11 A. I recall that happening, yes.

12 Q. Could you give us just a brief  
13 outline of the kind of inspection that was carried out  
14 by the government when it took this type of inspection  
15 over? What did it consist of? If I might make a  
16 suggestion, wasn't it inspection for the purpose of  
17 ascertaining that on board every ship going into the  
18 Great Lakes the rules of the road were known to the  
19 officers, and that the poster, showing the difference  
20 between the Great Lakes rules and the International  
21 rules, was on board at the wheelhouse, and so forth?

22 A. And the equipment.

23 Q. And that the equipment was satisfactory?

24 A. Satisfactory for the canalling.

25 Q. If you refer to page 40 of the brief  
26 of the Shipping Federation on the Great Lakes, there is  
27 this statement which I quote:

28 "The system remained in effect until  
29 the latter part of May 1959, when, by reason  
30 of official protests received from the United







1 States authorities, complaining that the  
2 Canadian government was jumping the gun,  
3 the Department of Transport discontinued  
4 such inspections without, however, informing  
5 the Shipping Federation..."

6 Do you recall that particular incident?

7 A. I have seen the notation about it  
8 and know this is the case; and I have read it in your  
9 brief.

10 Q. This was the case. What  
11 representations exactly were made by the American  
12 authorities to bring the government to stop this  
13 procedure of inspection of vessels before they went  
14 into the Seaway?

15 A. I don't know this, Mr. Brisset.  
16 It was possibly a telephone call from someone on the  
17 other side.

18 Q. Would you, nevertheless, agree  
19 with me that this system of inspection which the  
20 Department was carrying on was for the safety of  
21 navigation by ocean vessels in the Great Lakes?

22 A. Yes; otherwise I assume that the  
23 Steamship Inspection Division wouldn't have taken part  
24 in it at all.

25 Q. What could possibly have been the  
26 reason for stopping it if it was a safety measure?

27 A. The discussion was still going on  
28 about the legislation -- the joint legislation, or the  
29 parallel legislation -- with the Great Lakes Pilotage  
30 Acts, and it appeared to somebody in the States that we





1 were beginning to issue B certificates, as they came  
2 to be called, and apparently this was frowned upon at  
3 that time. I don't know who it was, or how it was  
4 done.

5 Q. However, the instructions were  
6 received by your Department not to inspect the ships  
7 any more?

8 A. This is correct.

9 MR. JACQUES: Question No. 3. This  
10 relates to pilot John Lindsay's suspension.

11 A. This case first came to the  
12 Department's notice in September 1959, through the copy  
13 of a letter which was passed to it by the Shipping  
14 Federation. It was addressed by the master of the  
15 German vessel, the OTTO NUBEL to the Marine Superin-  
16 tendent of his agents, the Canadian Pacific Steamships  
17 Limited. In this letter the master stated that when  
18 the vessel was ready to leave Detroit at 3.30 a.m.  
19 on July 19th 1959, the pilot was unfit to perform his  
20 duties due to intoxication; that the master took the  
21 ship away himself and turned her around to head  
22 downstream; that the pilot then appeared on the bridge  
23 but was still in such a state of intoxication that  
24 the master considered it unsafe to leave him in charge;  
25 that the master himself took the ship down the river  
26 to Lake Erie; and that when he signed the pilot's  
27 card before the pilot left the vessel at Port Weller  
28 the master had made a notation on the card concerning  
29 the incident.

30 Well, we made inquiry immediately and we





1 found that the card delivered to the pilotage office  
2 bore no such endorsement. A comparison between the  
3 alleged signature of the master with previous cards  
4 signed by the same master showed the card delivered by  
5 the pilot to have been a false card.

6 Q. Who made the comparison -- an expert  
7 in handwriting?

8 A. No; just we in the Department; the  
9 difference was obvious.

10 A Departmental officer was then  
11 despatched to Port Dalhousie to interview the pilot.  
12 The latter admitted that he had retained the original  
13 card, had copied the entries on another card, omitting  
14 the adverse report, and had copied the signature of  
15 the master. However, he denied that he had been  
16 intoxicated.

17 On receipt of this information a very  
18 serious view was taken of his action in falsifying the  
19 card, apart from the question of intoxication or  
20 falsifying the master's signature, and it was considered  
21 advisable to dispense forthwith with the services of  
22 the pilot who was a temporary employee on the casual  
23 basis.

24 The despatcher was instructed,  
25 accordingly, that the services of the pilot were to  
26 be dispensed with at the conclusion of the trip on  
27 which he might then be engaged. This, of course, was  
28 exactly what the Shipping Federation would have done the  
29 previous year, and what, I think, the pilots would have  
30 done if they had been running the show themselves.







1 Q. And did he apply again to join the  
2 pilotage service?

3 A. Well, he did later on, yes; but  
4 he first made an appeal on this. First of all, a  
5 telegram was received from Captain Norman S. Johnstone,  
6 special agent of the Canadian Merchant Service Guild,  
7 protesting against the suspension of the pilot "without  
8 proper investigation." A telegram of protest was  
9 also received from the secretary of the Canadian  
10 Merchant Service Guild Montreal and from the Chairman  
11 of the National Pilots Committee of the Canadian Merchant  
12 Service Guild.

13 Captain Johnstone had sent a copy of  
14 his letter to Mr. Elroy Robson of the Canadian Labour  
15 Congress in Ottawa, so Mr. Baxter called Mr. Robson on  
16 the matter, and after due consideration it was decided  
17 to invite the pilot to Ottawa to state his case if  
18 he considered that he had been wrongly suspended.

19 MR. LALONDE: The witness refers to  
20 "suspension." I wonder whether this was suspension  
21 or dismissal?

22 THE WITNESS: It was, in fact,  
23 dismissal, unless he could have shown...

24 MR. LALONDE: But the decision was  
25 taken, as you said before, to dispense with his  
26 services?

27 THE WITNESS: Yes.

28 MR. LALONDE: Completely?

29 THE WITNESS: Yes.

30 MR. LALONDE: It was dismissal and not





1 suspension?

2 THE WITNESS: Yes.

3 Well, the pilot appeared in company  
4 with Mr. Robson and Captain Johnstone on Thursday  
5 October 8, 1959. He was interviewed in my room.  
6 Mr. McPherson and Mr. Fortune and Mr. Macgillivray  
7 were present, as well as Mr. Robson and Captain Johnstone.

8 The pilot claimed that he had not taken  
9 any intoxicants while the ship was in Detroit; that  
10 he had been very tired; that he had not had any sleep  
11 since noon on July the 18th. When asked why he had  
12 not slept when he had the opportunity -- the ship was  
13 in Detroit for quite some time -- I forget just how  
14 long -- he said he had counted on sleeping on Lake  
15 Erie after reaching South East Shoal, and that the time  
16 of sailing had been postponed two or three times.  
17 He said that some time after midnight he had gone to  
18 his room and rested his head on his arms on the table  
19 at a settee and had gone heavily to sleep. He  
20 remembered the master calling him at 3.30 a.m., but  
21 claimed that the master had told him that they would  
22 not sail until 5 o'clock. He was called again at  
23 5 o'clock and went up on the bridge -- this is his  
24 story -- but he claimed that the master did not invite  
25 him to take over control of the ship, or make any remark  
26 to him at all, while the master navigated the ship  
27 himself down to South East Shoal.

28 In support of his contention that he  
29 was not intoxicated he recounted an incident which he  
30 claimed he saw on the way down when the master was





1 following slowly behind a ship with a tow although it  
2 was, in the pilot's opinion, quite safe to pass.

3 When I asked him why he did not consider  
4 that it was his duty to volunteer the information, or  
5 to advise the master on this point, he indicated that  
6 he did not consider that he was due to volunteer that  
7 information unless asked. He said he had turned and  
8 winked at the wheelsman when the master had called  
9 up the ship ahead on the radio telephone and asked if  
10 he could pass.

11 The pilot admitted the falsification of  
12 the card and said he had done this because the report  
13 of drunkenness was false and because he wanted to keep  
14 the original card in case he wished to take court action  
15 against the master.

16 On the request of the Chairman, myself,  
17 he handed over the original card.

18 Mr. Robson, speaking on behalf of  
19 the pilot, suggested that the latter's normal manner  
20 of speaking English was such that strangers might be  
21 under the impression that he was intoxicated. He  
22 admitted that the pilot had been wrong to falsify the  
23 card. He pleaded for clemency.

24 Captain Johnstone then spoke on behalf  
25 of the pilot and suggested that the pilots in the Port  
26 Weller-Sarnia area had been working very hard and he  
27 suggested that the pilot had been exhausted. He  
28 stated that the pilot was not normally a drinking man,  
29 and that many of the pilots in the area had been very  
30 surprised to hear that he was being accused of







1 drunkenness.

2 In regard to the falsification of the  
3 card Captain Johnstone claimed that the pilot had done  
4 this due to fear of consequences and that that fear  
5 was prevalent in the pilot body, that the members of  
6 the pilot body were, generally speaking, dissatisfied  
7 concerning conditions, and apprehensive of the future.

8 The pilot and his advisers were informed  
9 that their representations would be given consideration,  
10 and with all possible sympathy for the pilot.

11 Well, on the following day it happened  
12 that this vessel was passing through Montreal and I  
13 went myself down to Montreal to interview the Master  
14 and chief officer of the ship.

15 The master said he himself had gone to  
16 the pilot's room at 3.30 a.m. on July 19th and had  
17 found the pilot sleeping on the setee. I asked him  
18 if it had not been the case that the pilot had been  
19 sitting on the setee with his head on his arms on the  
20 table. He said definitely not, the pilot was  
21 lying on the setee. He had called the pilot, who had  
22 grunted a reply but had made no move to get up.

23 After repeatedly attempting to call him  
24 the master decided to go to the bridge, and he called  
25 the chief officer back from the bow where he was  
26 standing ready to order the lines let go. He had told  
27 the chief officer that the ship could not go yet because  
28 the pilot was not fit, and he would wait and try again  
29 at 5 o'clock, and if the pilot was still not fit then  
30 the master would take the ship away himself.





1                   The sailor on watch had called the  
2 pilot at a quarter to five, and at 5 o'clock the  
3 master being on the bridge, and the ship being ready to  
4 sail, the pilot had not appeared, so the master sent  
5 the wheelsman to give him another call.     However,  
6 the pilot didn't appear on the bridge until after the  
7 ship was out in the river and was turned and heading  
8 downstream.

9                   When the ship was headed downstream the  
10 master turned and said "She is all yours."     The  
11 pilot merely mumbled something in reply but made no  
12 attempt to take control of the ship.     The master  
13 considered that he was still incapable of doing the  
14 job and continued to navigate the ship down the river  
15 while the pilot stood around at the front of the wheel-  
16 house with his arms resting on a window ledge and his  
17 head nodding and his eyes closed for much of the time.

-

-





Slocombe, dir  
(Jacques)

1 The Master had not seen the  
2 pilot actually drinking, but said that the pilot had  
3 been off and on the ship at intervals during the hours  
4 prior to sailing, and he thought he had been visiting  
5 a friend either on a ship lying astern or some other  
6 place.

7 BY MR. JACQUES: Q. Did he say whether the pilot  
8 reeked of alcohol?

9 A. He didn't mention this, as I  
10 recall. The chief officer, however, said that about  
11 2:00 A.M. on July 19 he had been working at his desk  
12 on his cargo papers when the pilot had entered his  
13 room. He had a bottle of beer in his hand, and he  
14 was "talking a lot of crazy things".

15 This had been noticeable, the  
16 chief officer said, because the pilot was normally  
17 very quiet. The pilot then left, presumably to return  
18 to his own room. The chief officer did not see him,  
19 the pilot, again, but at 3:30 when the ship was ready  
20 to sail the Master had called to him that the ship  
21 could not go because the pilot was not fit.

22 He remembered that after the  
23 ship actually sailed at 5:00 A.M. he went up on the  
24 bridge and then the pilot was at that moment standing  
25 outside the wheelhouse, not taking any part in the  
26 navigation.

27 The second engineer reported  
28 that he had seen the pilot on shore at some time during  
29 the afternoon and the pilot had then seemed to be "very  
30 happy".







Slocombe, dir  
(Jacques)

1 All of the evidence as outlined  
2 above, as I have outlined it above, was submitted for  
3 final review to the senior Assistant Deputy Minister  
4 who confirmed the action of dismissal from the service.

5 Q. From government employment?

6 A. From this particular employment,  
7 yes.

8 Q. From this particular employment?

9 At that time I take it then that Mr. Lindsay had no  
10 pilot's licence since it is evident that there was no --

11 A. No, there was no licence. Of  
12 course this is not a District under Part VI of the Act.

13 Q. Was he told that he couldn't  
14 pilot ships any more? What was he told when he was  
15 dismissed?

16 A. He was merely told he was no  
17 longer an employee of the Department, so he was not  
18 a prevailing rate pilot.

19 Q. He was not a prevailing rate  
20 pilot?

21 A. No.

22 Q. But he would have been at  
23 liberty to pilot again had he so wished under private  
24 agreement with the ship?

25 A. I don't know that he was  
26 specifically told this, Mr. Jacques.

27 Q. Did he apply to join the pilotage  
28 service again?

29 A. He did. This was in 1962. The  
30 competition was held for District #3, and Pilot Lindsay --





Slocombe, dir  
(Jacques)

1 he applied and was examined. He was interviewed, but  
2 he was not placed near the top of the rating list.

3 Q. On what basis?

4 A. There were so many much more  
5 satisfactory people ahead of him evidently.

6 Q. Satisfactory from what point of  
7 view?

8 A. From the point of view of being  
9 an employee of the Department.

10 Q. Yes, but was he found unsatis-  
11 factory because his seamanship was not adequate or  
12 ship handling was not adequate or because he had been  
13 previously fired from the Department?

14 A. I'm sorry, I said he was not  
15 found satisfactory. I am not sure of this. I am  
16 saying he was not near the top of the rating list.  
17 There were only three appointed.

18 Q. There were three chosen in  
19 District #3?

20 A. There were three chosen in  
21 District #3.

22 Q. And you took the top three?

23 A. As we had done in District 2.

24 Q. And the applicants were rated  
25 on what terms? On what conditions? On what criteria?

26 A. On their experience and on their  
27 testimonials and the known facts concerning them.

28 MR. JACQUES: Thank you.

29 THE CHAIRMAN: Are there any other  
30 questions on this subject? The next question?





1 Q. The next sub-section 3, the  
2 Lakehead. Were you requested to establish a District  
3 at the Lakehead when foreign ships became very  
4 prevalent in the Great Lakes in 1959?

5 A. I'm not sure that we were  
6 requested specifically to form a District other than --  
7 I am not sure we were requested to form a District,  
8 but we were aware of what the Shipping Federation was  
9 doing at the Lakehead and we saw no reason to object  
10 to it.

11 Q. This rather puzzles me because  
12 it seems that the Department has never considered the  
13 taking over of pilotage services -- there is a case  
14 here where there was private pilotage done and the  
15 Department obviously at that moment was not interested  
16 in taking over the services at the Lakehead, and there  
17 is again another case in Port Weller-Sarnia area and  
18 the Department took over there after it had been done  
19 for several years on a private basis. Can you tell  
20 us what guides the Department on those decisions?

21 A. I think I could say that the  
22 Department is not anxious to extend its responsibilities  
23 in this matter, as I have said before, if a private  
24 concern is operating a system which is satisfactory.  
25 There is no reason for us to interfere, as in the case  
26 of Port Cartier and other places.

27 Q. Or Baie Comeau and Seven  
28 Islands?

29 A. This is Quebec?

30 THE CHAIRMAN: Or Gaspé?







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Slocombe, cr-ex  
(Lalonde)

1 MR. JACQUES: Thank you.

2 CROSS-EXAMINATION BY MR. LALONDE:

3 Q. If it is the view of the  
4 Department that they were not interested in extending  
5 into the pilot field, why did the Department take over  
6 in the Port Weller-Sarnia area?

7 A. Because we were requested to  
8 do so, and there of course was the international  
9 aspect coming along then.

10 Q. By whom were you requested to  
11 do so?

12 A. The Shipping Federation.

13 Q. Now, the answer you gave about  
14 extending Districts, does it also apply to the  
15 extension of the Civil Service status of the pilots?  
16 That is, that you are not interested in extending your  
17 empire in that field?

18 A. I think the attitude there is  
19 that if the pilots were agreeable, that the Department  
20 would be happier.

21 DIRECT EXAMINATION BY MR. JACQUES:

22 Q. Did you say you were or you were  
23 not requested to establish a District?

24 A. I said I didn't recall that we  
25 had actually been asked to establish a District at the  
26 Lakehead.

27 Q. But were you asked to take over  
28 pilotage at the Lakehead? Whether through creation  
29 of a District or through the setting up of prevailing  
30 rate employees at the port?





Slocombe, dir  
(Jacques)

1 A. Not at that time, I think.

2 Q. Pardon?

3 A. No, not at that time.

4 Q. Later on?

5 A. Later on when the Pilotage Act,  
6 the Great Lakes Pilotage Act went through and the  
7 States and our Part VI A was passed, then it was all-  
8 inclusive.

9 Q. Did you receive any request  
10 to assist the service given by the three local people  
11 under Captain Mann?

12 A. I don't think so.

13 Q. To coordinate or to look after  
14 dispatching?

15 A. No.

16 Q. Or to adopt rules and regulations  
17 under whatever statute it might be in order to protect  
18 discipline?

19 A. No.

20 Q. You were not?

21 A. No.

22 THE SECRETARY: Did you know what was  
23 going on?

24 THE WITNESS: Yes, we knew what was  
25 going on. It seemed to be working all right.

26 THE CHAIRMAN: Any further questions on  
27 this subject? We pass now to the next chapter.

28 MR. JACQUES: Q. The chapter on inter-  
29 national negotiations. Question No. 1, have you  
30 prepared the answer to this rather lengthy question?





Slocombe, dir  
(Jacques)

1 A. From the time when it was  
2 realized there would be a great increase of ocean  
3 shipping into the Great Lakes, it became evident that  
4 some kind of cooperative effort was desirable in the  
5 matter of pilotage.

6 It was obvious that Canadian  
7 pilots or sailing Masters would not be allowed to  
8 continue the virtual monopoly that they had previously  
9 enjoyed, particularly when the bulk of the ocean shipping  
10 would be going to the United States ports.

11 The three possibilities mentioned  
12 in the question -- the possibility of having a joint  
13 International Commission or the division of the Great  
14 Lakes Basin into Canadian and U.S. spheres of control  
15 or joint operation by Canadian and American Seaway  
16 entities -- these three possibilities were envisaged  
17 in discussions between the United States and Canadian  
18 officials, but it appeared that their implementation  
19 would require formal treaties which would take years  
20 to accomplish.

21 The final decision that each  
22 country would arrange its own legislation to implement  
23 the operation of parallel pilotage services with joint  
24 working rules and uniform charges was taken as the best  
25 possible solution.

26 Q. Excuse me. Were you told why  
27 it would take years to acquire a treaty between Canada  
28 and the U.S.? If everybody is agreed I don't see why  
29 it should take years.

30 A. Oh, this would be a wrong statement







Slocombe, dir  
(Jacques)

1 that everybody was agreed, Mr. Jacques. There were --

2 Q. I'm sorry. Agreed on the  
3 principle of setting up a joint International Commission,  
4 for instance. Was there any agreement reached? Of  
5 the three suggestions made in the question, which one  
6 was said to be the most efficient? Perhaps not the  
7 easiest one to implement, but the most efficient form  
8 of service?

9 A. I don't recall that this was  
10 ever decided which would be the best. All three were  
11 discussed, but each of them would have required action  
12 through the government -- through the House and the  
13 States.

14 Q. Well, the first one and the  
15 second one, yes, but not the third one.

16 A. Well, I don't know about that  
17 one, but in any case these were not chosen. The final  
18 decision was that there would be parallel legislation  
19 as being the easiest and quickest way to deal with it.

20 Q. Apart from the solutions which  
21 are suggested in the question, were any other solutions  
22 discussed?

23 A. No, I don't recall this. I don't  
24 recall any more.

25 Q. And the three solutions outlined  
26 in the question were rejected because it would take  
27 too long to implement them? Is that the only reason  
28 why?

29 A. That was the reason given as  
30 to the -- the reason that was put forward, that it would





Slocombe, dir  
(Jacques)

1 be too complicated to do this.

2 COMMISSIONER SMITH: My Lord, I think it  
3 might be helpful if the Commission had in some detail,  
4 and I do not expect the witness to testify on that now,  
5 but some detail of what these three separate proposals  
6 contained. If there is something on the record of  
7 DOT that would indicate that, it might be helpful for  
8 us to know just what those three proposals contained.

9 THE WITNESS: I am not sure, Mr. Smith,  
10 that this would be formally set out in writing. I  
11 know that there were discussions, many discussions,  
12 but I don't know that any of these were formally  
13 set out as a proposal, but I could search for that.  
14 It would take some time. If the Commission is  
15 interested.

16 THE CHAIRMAN: Yes, we would appreciate  
17 if you would do that because we are asked by our  
18 mandate to find out whether the system is a good  
19 system, whether there could be another one, and so if  
20 there were any reasons why another system found favour  
21 or that there would be big difficulties, we should know  
22 about it.

23 THE WITNESS: The division of the Great  
24 Lakes Basin into U.S. and Canadian spheres of control,  
25 we did favour this. We felt that such a system would  
26 make it easier to administer, but I don't think that  
27 very serious consideration was given to it on the other  
28 side because I think it is obvious -- I am not saying  
29 that this is the reason -- but I can put forward this:  
30 That it would have meant that pilots who had licences for





Slocombe, dir  
(Jacques)

1 a certain portion of American waters would be forbidden  
2 to use them in those waters, and in favour of Canadian.  
3 Now, I can quite see even on the Canadian side if this  
4 kind of proposition was put to Parliament, that a  
5 Canadian would not be permitted to act, to work in  
6 Canadian waters because Americans were doing it, I  
7 think there would be bound to be opposition.

8 Q. Yes, but you are taking only  
9 one half of the picture at the time. This would be  
10 reciprocal. We would allow Americans to work freely  
11 in our waters whilst we would be allowed to work in  
12 their waters in another area. There would be an  
13 exchange of advantages and disadvantages which would  
14 compensate.

15 A. This seems quite reasonable on  
16 the official level, but for the man who has this  
17 expert knowledge in particular, one particular part  
18 of the waters such as, for instance, it wouldn't help  
19 him to say that other Americans are being allowed to  
20 do it all somewhere else.

21 Q. You and I are just arguing. It  
22 is very pleasant, but I don't think we can get very far.  
23 You suggest that the Department suggested spheres of  
24 control; is that correct?

25 A. We favoured it. I don't know  
26 who suggested it.

27 Q. But the Department favoured  
28 spheres of control and this proposal you say was turned  
29 down by the U.S.?

30 A. Well, it was turned down in the









1 discussions. It was not pursued, shall we say.

2 Q. You didn't take part in the  
3 discussions, did you?

4 A. Some of them I may have, but I  
5 can't recall the explicit meeting.

6 Q. In any event you had suggested  
7 that and it didn't go any further than the discussion?

8 A. As I say, I'm not sure who  
9 suggested it, but it was suggested. It was suggested  
10 and it didn't go any farther. It wasn't taken up.

11 Q. I see, and would you have any  
12 record of that suggestion?

13 A. I doubt it.

14 Q. Was it a plan drawn and submitted  
15 to whoever was negotiating?

16 A. I do not think that it ever  
17 went as far as being put on paper as a plan.

18 Q. Surely it must have been the  
19 subject of a memorandum addressed to whoever was  
20 representing Canada on the negotiating Board?

21 A. We are treading on difficult  
22 ground here, Mr. Jacques. These discussions are not  
23 public property. We have here copies of the Aide  
24 Memoires and the exchange of notes which External  
25 Affairs has cleared with the Americans. I can file  
26 these. These are supposed to give the story from the  
27 government's point of view. I think Mr. Macgillivray  
28 will agree with me that it is not proper really for me  
29 to be discussing the working up to the final decisions.

30 Q. Well, as long as Mr. Macgillivray





1 does not object I am going to pursue the point.

2 MR. MACGILLIVRAY: Well, My Lord, I do  
3 not think Captain Slocombe should be asked to discuss ---

4 THE CHAIRMAN: Not as Captain Slocombe.

5 MR. MACGILLIVRAY: ---what occurred in  
6 discussions between the Americans and the Canadians.  
7 I understood that Mr. Jacques was trying to find out if  
8 a plan had been worked out for any one of these three  
9 alternatives, and if so I understood from you, My Lord,  
10 that you would like to see it. If such a plan had  
11 been worked out and Captain Slocombe was able to produce  
12 one, I would have then wanted to query whether it could  
13 be released for general information or just to the  
14 Commissioners.

15 THE CHAIRMAN: Yes. You may see our  
16 situation. Let us say that we come to a very good  
17 solution only to learn afterwards that this has been  
18 thoroughly studied and for information that we did not  
19 have it was turned down; it is not workable. So I  
20 think we would have failed in our investigation.

21 MR. MACGILLIVRAY: I quite agree, My Lord,  
22 that if there should be a plan set out in some detail  
23 under any one of these three heads, then it should be  
24 made available to the Commission. But I do not think it  
25 should necessarily be made available to anyone else.

26 THE CHAIRMAN: In any event the documents  
27 you are going to file will be studied and should it  
28 be necessary to pursue the matter further, we will decide.

29 MR. JACQUES: Thank you; I am quite  
30 satisfied, My Lord, as long as the Commission has whatever





Slocombe, dir  
(Jacques)

1 was available.

2 Q. Captain Slocombe, now if we might  
3 file the Aides Memoires to which you have referred, I  
4 think we have requested the filing of four.

5 A. Here is one of March 20th, 1958.

6 MR. JACQUES: Shall we file them in a  
7 bundle, My Lord?

8 THE CHAIRMAN: Yes, in a bundle.

9 MR. JACQUES: The four Aide Memoires  
10 will be Exhibit 1396.

11 THE SECRETARY: Those are Canadian  
12 Aides Memoires?

13 MR. JACQUES: I do not know yet. We  
14 will describe them as we go along.

15 Q. The first Aide Memoire bears  
16 what date?

17 A. March 20th, 1958.

18 Q. And is it from Canada to the  
19 U.S.?

20 A. Yes.

21 Q. A Canadian Aide Memoire dated  
22 March 20th, 1958?

23 A. And one dated May 6th, 1959.

24 Q. Canadian Aide Memoire dated May  
25 6th -- or 16? May 6th, 1959.

26 A. And one dated September 11th, 1959.

27 Q. Again a Canadian Aide Memoire?

28 A. And one dated February 19th, 1960.

29 Q. And this is also a Candian Aide  
30 Memoire?







1 MR. LALONDE: Are there any Aides Memoires  
2 from the reverse side?

3 THE WITNESS: I have not got them.

4 ---EXHIBIT NO. 1396: Canadian Aide Memoires dated March  
5 20, 1958; May 6, 1959; September  
6 11, 1959; February 19, 1960.

7 THE CHAIRMAN: So counsel will look them  
8 up and see if there is a need for something else. As  
9 far as we are concerned we are going to study them  
10 and should we need something else we will ask for it.  
11 But we will see if it is necessary to have it.

12 MR. JACQUES: It is my fault; the  
13 question is badly drafted. It refers to Canadian  
14 Aides Memoires and the witness has brought Canadian  
15 Aides Memoires with him. He was not asked to bring any  
16 U.S. Aides Memoires which might have been delivered to  
17 Canada in connection with pilotage.

18 THE CHAIRMAN: You asked for Canadian  
19 Aides Memoires and four dates are mentioned there.

20 MR. JACQUES: We might ask the witness  
21 to let us have ---

22 THE CHAIRMAN: Others.

23 MR. JACQUES: Q. Any other Aide Memoire,  
24 either Canadian or U.S. which has been exchanged with  
25 respect to pilotage in the Great Lakes?

26 A. My Lord, I will have to ask  
27 External Affairs for these. This is where I got these  
28 from -- from External Affairs.

29 Q. Fair enough.

30 A. I have a number of exchanges of  
notes which come in question 4.





Slocombe, dir  
(Jacques)

1 MR. JACQUES: Question No. 2 ---

2 MR. BRISSET: My Lord, may I ask a  
3 question?

4 THE CHAIRMAN: Yes.

5 CROSS-EXAMINATION BY MR. BRISSET:

6 Q. Captain, did your government  
7 receive Aides Memoires also from foreign governments --  
8 Norwegian, Dutch, Italian, French, English -- at the  
9 time the legislation was discussed between the two  
10 governments, American and Canadian?

11 A. I recall there were some  
12 representations made -- I do not know the form of these  
13 representations -- about the proposed legislation at  
14 the time when it was up before the American Houses.

15 Q. Would you be free to put these  
16 Aides Memoires or notes from foreign governments before  
17 this Commission?

18 A. I could ask, Mr. Brisset.

19 Q. If you could will you file them  
20 along with the American Aides Memoires which you have  
21 been asked to file, if they exist?

22 A. If I can get them, yes.

23 Q. Now, Captain, you have spoken of  
24 one proposal that fell by the wayside during the course  
25 of the negotiations between the two governments, namely  
26 the division of the Great Lakes Basin into Canadian and  
27 U.S. spheres of control.

28 Is it not a fact, Captain, that  
29 this particular proposal fell through purely on a problem  
30 of semantics, namely that the American authorities





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1 indicated to the Canadian government that if this  
2 proposal was put into effect then the Canadian Masters  
3 and officers of Canadian lake ships who were not pilots  
4 in the sense that American pilots are would no longer  
5 be qualified in American waters?

6 A. I am not aware of this.

7 Q. And that conversely the American  
8 Masters and officers of American lake ships, who are  
9 called pilots in the United States, would no longer  
10 be qualified to pilot for instance in the Welland Canal?  
11 Was that not the problem that caused this proposal  
12 to fall through?

13 A. This is what I said a few  
14 minutes ago. I thought this kind of problem would  
15 be almost insuperable because there would be this  
16 problem of semantics and there would be difficulties  
17 in the matter.

18 Q. In other words, may I suggest  
19 that at the time of these discussions the American  
20 government and the Canadian government were not  
21 speaking the same language in the sense that they were  
22 not speaking of what we all understand here as pilotage?

23 A. Oh, I do not think I have said  
24 that, that it got to the stage of one government  
25 approaching the other government formally on this. I  
26 do not think it did. These discussions between officials  
27 were quite informal. As I say, when you say that this  
28 proposal was made by one government to the other, I do  
29 not think this was so.

30 Q. At all events, Captain Slocombe,







1 were you aware of the public discussions which took  
2 place on the 25th and 26th October, 1955 at meetings  
3 called by the United States Coast Guard, I think, in  
4 Washington, the record of which has been filed as  
5 Exhibit 1221?

6 A. I was probably aware of it  
7 at the time.

8 Q. Are you aware that in these  
9 discussions one of the points that was often raised  
10 was that on American lake ships you will find three  
11 or four pilots on board while ocean-going ships had  
12 no pilot at all?

13 A. I remember seeing a reference  
14 to that, Mr. Brisset. But of course in any discussions  
15 in which we took part such a remark would not have been  
16 allowed to go unchallenged.

17 Q. But is it not a fact that this  
18 problem of semantics existed at all times throughout  
19 the negotiations between the two governments and even  
20 when the final legislation was passed?

21 A. Not in discussions in which we  
22 took part because this was something of which we were  
23 very much aware.

24 Q. Do you recall, Captain, when  
25 for the first time the topic of the necessity of  
26 pilotage legislation on the Great Lakes was taken up  
27 between the two governments? Am I right in assuming  
28 that it goes back as far as 1955?

29 A. Yes, I would say it does.

30 Q. Or even before 1955?





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Slocombe, cr-ex  
(Brisset)

1 A. The first thing we heard of it,  
2 I think, was the former Commandant of the Coast Guard  
3 speaking to us at the Dominion Marine Association joint  
4 meeting at the Seignoury Club.

5 Q. In 1955?

6 A. It may have been 1955. They  
7 were asking us about pilotage. They were coming into  
8 it and knew at that time ---

9 Q. And were there discussions from  
10 then on pretty regularly or continuously?

11 A. Not continuously, I would say.

12 Q. By "continuously" I mean with-  
13 out ---

14 A. From time to time the matter was  
15 raised, yes.

16 Q. Did the Canadian government  
17 express any views in these preliminary stages?

18 A. In those preliminary stages  
19 all we were concerned with was to make sure that our  
20 Canadian Sailing Masters would still be permitted to  
21 carry on what they were doing. We had no official  
22 interest in the Sailing Masters but we were aware  
23 that they were and they had been for many years working  
24 on ocean ships and going into American ports -- Lake  
25 Michigan and so on. Our chief concern was that anything  
26 that the Americans might do would not take away from  
27 these men the right to earn their living in the way that  
28 they were. We were not thinking at that time of taking  
29 over in any way.

30 Q. In other words, at that time you





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(Brisset)

1 were contemplating the continuance of the Sailing  
2 Masters' system into the Great Lakes after the opening  
3 of the Seaway?

4 A. Yes. We thought it worked very  
5 well.

6 Q. You had not sought, I assume,  
7 the views of the shipping industry itself on whether it  
8 also considered that the Sailing Master system could  
9 continue after the opening of the Seaway?

10 A. Well, at the time I am speaking  
11 of, of course, the Seaway was hardly.....It was some  
12 distance away then.

13 Q. Did it ever occur to the  
14 Canadian government before 1959 -- or at least in 1957  
15 or 1958 -- that the Sailing Master system could not  
16 continue after the opening of the Seaway? Did that  
17 ever enter your mind, for instance?

18 A. Only when it began to be  
19 obvious that there would be very great demands for.....  
20 Let me put it this way: That the Sailing Master system  
21 as it had existed would not be continued. I do not  
22 know what you are trying to persuade me to say, Mr.  
23 Brisset.

24 Q. Because of the demands of the  
25 Sailing Masters or because of the views that the  
26 Shipping Federation of Canada was taking?

27 A. Well, the views of the Shipping  
28 Federation did change, did they not?

29 Q. Yes.

30 A. And we were aware of this change







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(Brisset)

1 when it came.

2 Q. In other words you had not  
3 foreseen what the Shipping Federation of Canada had  
4 foreseen until the views of the Federation were expressed  
5 to you?

6 A. No. At that time we were not  
7 really thinking that we would be, shall I say, personally  
8 interested in it.

9 Q. In the years that preceded the  
10 introduction of the Great Lakes pilotage legislation  
11 in both countries, had there been any discussions between  
12 your government and the Canadian lake shipping industry  
13 or American lake shipping industry?

14 A. On the question of Sailing  
15 Masters?

16 Q. On the question of pilotage on  
17 the Great Lakes when the Seaway would open?

18 A. I do not think there would have  
19 been any formal discussion because they were not, at  
20 that time at least, interested in pilotage on the  
21 Great Lakes.

22 Q. You had nevertheless attended  
23 the joint meetings of the Lake Carriers Association  
24 and Dominion Marine Association where such topics were,  
25 I would say, to the fore?

26 A. I attended some of these meetings.  
27 I do not remember whether I was there when this was  
28 discussed or not; I am not sure.

29 Q. Would you not agree with me,  
30 however, that the Lake Carriers Association in the





Slocombe, cr-ex  
(Brisset)

1 United States and the Dominion Marine Association  
2 were showing interest in the question of pilotage  
3 for the ocean vessels before 1959?

4 A. Yes, I am aware of that. I  
5 think I recall that.

6 Q. Would you know for what purpose  
7 they had any interest in the problem?

8 A. I would not care to say for  
9 what purpose, Mr. Brisset.

10 MR. LALONDE: I do not think I have  
11 any questions of Captain Slocombe on this particular  
12 point, except that I would like to point out -- and  
13 maybe my friend Mr. Brisset will explain that to me  
14 later on -- that I do not quite see his argument  
15 about the semantic aspect as having any real effect  
16 on the spheres of control idea, especially in view  
17 of the fact that in Cornwall District, for instance,  
18 you have there an area which is piloted exclusively  
19 by Canadian pilots but nonetheless you have American  
20 lake ships exempted and they have people there who are  
21 called in the American sense pilots first class,  
22 pilots second class, etc. So that is a point that I  
23 think should be cleared up.

24 MR. BRISSET: I will explain to my  
25 learned friend.

26

27

28

29

30





1 THE CHAIRMAN: Well now, before  
2 adjourning just a remark that we have a calendar  
3 problem. I note that we are making good progress.  
4 It is very difficult to find a time that is going to  
5 be suitable for everybody for adjournment should we  
6 have to postpone our week of the second of November  
7 which we would not like to do on account of the  
8 inconvenience it causes to the Commission.

9 I was just wondering if we could  
10 sit Saturday if we would be able to finish, and we  
11 could even stay longer tonight, longer after five  
12 o'clock tonight, and maybe tomorrow morning start in  
13 earlier also, and all through Saturday and see whether  
14 we would not be able to wind up.

15 There is the problem of the  
16 Imperial Oil and rebuttal evidence of the Halifax  
17 people. This is going to be a different question. This  
18 will not be brought here at this time. We have  
19 received material from Counsel Dickey, and we are  
20 going to study it and should we find that it is  
21 necessary to have further evidence adduced, then we  
22 might consider a special hearing for that at a future  
23 date.

24 I will let you talk about it.  
25 We are doing pretty well, and maybe quite a few of these  
26 questions will take only a few words.

27 MR. JACQUES: I am confident, My Lord,  
28 we could finish by Saturday afternoon.

29 THE CHAIRMAN: Think it over, and we  
30 will adjourn now until 2:30.  
---NOON ADJOURNMENT.







--- On resuming at 2.30 p.m.

THE CHAIRMAN: It is agreed, then, that we are going to sit tonight up to five thirty and maybe a few minutes later in order to finish the questions; tomorrow morning at 9.30; and that tomorrow night we will also extend the hearing -- I mean, not at night -- but before dinner; and there would be a sitting on Saturday and we will try to finish up.

I don't want you to hurry unduly, but to try to make use of every minute, and I hope we will be able to finish.

MR. JACQUES: I now call Mr. Baxter.

JOHN ROYDON BAXTER, sworn

DIRECT EXAMINATION BY MR. JACQUES

Q. For the record, would you state your full name and occupation, please?

A. John Roydon Baxter, Director of Administration and Personnel, Department of Transport.

Q. You have been directed to answer questions 3, 10, 13 and 14 with respect to Great Lakes District No. 2. The first question reads as follows -- and this is question No. 3:  
In regard to prevailing rate employees regulations, which is Exhibit 1007, (a) on what basis are leave credits granted to pilots?





1 A. Leave is granted to pilots, on  
2 the basis of the first season of employment, at three  
3 days; the second season, six days.

4 Q. That is, three days per year?

5 A. Three days per year.

6 Q. Per season?

7 A. That is right; after the first  
8 complete season.

9 Q. So they get three days' holiday?

10 A. That is right.

11 Q. Or three days' leave?

12 A. Three days after the first completed  
13 season of employment. After the completion of the  
14 second season they get seven days, and after fifteen  
15 years they get ten and a half days; that is after they  
16 have completed 15 years. They get seven days a year  
17 from the end of the second season to the fifteenth  
18 season, following which they get ten and a half days  
19 a year.

20 Q. And apart from the statutory  
21 holidays these are the only holidays which they get?

22 A. I would like to make a correction  
23 on the first one. It is three and a half days after  
24 the first completed season.

25 Q. Do the pilots receive compensation  
26 for a number of holidays?

27 A. Yes, they do.

28 Q. And what is the compensation they  
29 receive?

30 A. A day and a half for each statutory





1 holiday; and the statutory holidays recognized for  
2 prevailing rate employees are six statutory holidays.

3 Q. Would you explain how sick leave  
4 credits work out for pilots?

5 A. Yes; sick leave credits accrue  
6 to pilots at the rate of nine days for each completed  
7 year; that is, the average prevailing rate employee  
8 has nine days for each completed year; but as the  
9 pilots are on a seasonal basis they get eight twelfths  
10 of the normal yearly entitlement, so that for a season  
11 of eight months they would accumulate six days' sick  
12 leave with pay, and this is accumulative.

13 Q. And this accumulates every year?

14 A. Yes.

15 Q. And in the third year he would  
16 be getting eighteen days?

17 A. Yes.

18 Q. The third season?

19 A. And if he takes leave it is taken  
20 off. It is like a bank account.

21 Q. Is there a maximum?

22 A. No.

23 Q. So if he works ten seasons he has  
24 got 60 days?

25 A. Yes.

26 Q. And if he works fifteen he has got  
27 90 days?

28 A. Yes.

29 Q. Would you explain what the work week  
30 of the pilots consists of -- and, of course, I refer to







1 the pilots of District No. 2?

2 A. There is really no work week as  
3 such, as known normally under government regulations,  
4 for pilots. The pilots were granted compensation on  
5 the basis of all hours worked, including overtime.

6 The Department at that time staffed,  
7 however, to an average fifty-hour week, recognizing that  
8 in the early part of the season the employees would not  
9 work 50 hours, and perhaps at other times of the  
10 season as well; but that their compensation would be  
11 based on the anticipation that they would work an  
12 average of 50 hours a week through the season.

13 Q. Not being facetious, what did the  
14 Department understand by "work"?

15 A. The Department interpreted as  
16 "work" bridge time, including those periods of waiting  
17 time -- short waiting time -- in the canal.

18 Q. So it was 50 hours per week on the  
19 bridge?

20 A. Yes.

21 Q. That is the staffing basis?

22 A. That is right.

23 Q. Has the Department ever thought of  
24 establishing how many hours that would represent for  
25 a pilot all told, being on his feet, waiting for a  
26 ship, being on the ship and crossing the lake?

27 A. I believe that the operating people  
28 had some discussion on it. There has been no analysis  
29 made to me for consideration.

30 Q. And with respect to staffing, would





1 you explain now how you proceed to arrive at the  
2 number of pilots required?

3 A. This is a very difficult thing,  
4 because there was no experience to go by...

5 MR. LALONDE: What was the answer to  
6 the previous question?

7 THE WITNESS: I think, basically, I  
8 said that there had been consideration given to this  
9 matter, but I have no analysis on which I could express  
10 a view as to what would have been my recommendation.

11 MR. JACQUES: Q. And what was  
12 the last question I asked?

13 --- The reporter repeated the question:

14 "With respect to staffing, would  
15 you explain now the procedure to arrive at the  
16 number of pilots required?"

17 A. I think I was saying that it was  
18 very difficult, because there was no comparable  
19 experience in the Department, or anywhere else in the  
20 government, that we could find; so basically that first  
21 year we used the experience of the Shipping Federation  
22 to arrive at the first number of pilots and the number  
23 of positions that would be needed; in addition, of  
24 course, having authority to use casual employees because  
25 of the fact that you have to deal with emergencies  
26 and that sort of thing, in addition to the basic  
27 establishment that Treasury Board permit us to have.

28 Q. Now, the evidence establishes that  
29 prior to 1959, or, rather, in 1958, the Shipping  
30





1 Federation had 29 pilots in the Port Weller-Sarnia area.  
2 When the Department took over they created 20 permanent  
3 positions. Would you explain why only 20 permanent  
4 positions were created in view of the fact that 29  
5 full time pilots worked in the same area before?

6 A. Well, we were authorized twenty,  
7 and, in addition, had authority for additional casuals.  
8 This, in the Department's view, appeared to be an  
9 appropriate number to carry the full season. In  
10 the light of the experience it was found that more than  
11 twenty would be needed on a continuing basis.

12 Q. But you had the 1958 experience  
13 which indicated that you needed twenty nine?

14 A. Perhaps this is so; however, we  
15 employed more than twenty during the season. We only  
16 put twenty continuing positions in the establishment.  
17 We used casuals; and it was evident, following the  
18 experience of that year that the following year we  
19 would have to increase continuing permanent establish-  
20 ment, which was done.

21 Q. Yes; but I still can't understand  
22 why, in view of the fact that there were twenty nine  
23 pilots working full time for the season in the district  
24 prior to the Department taking over -- that is a fact  
25 that is established, and nobody has said that the pilots  
26 were working only half time during that period in 1958 --  
27 and yet, when the Department took over, instead of  
28 creating twenty nine permanent positions they created  
29 only twenty?

30 A. That is right.







1 Q. But why only twenty?

2 A. Twenty plus casuals to take care  
3 of any emergency.

4 Q. But what was the difference between...

5 A. Basically because the Department  
6 felt that it was going to staff on a continuing basis  
7 as permanent employees, not private entrepreneurs --  
8 that these people would become part of the superannuation  
9 fund and other things; and, basically, a conservative  
10 approach was taken to the continuing positions on the  
11 establishment, providing an avenue, however, through  
12 which we could meet emergencies through casual  
13 employment.

14 Q. So the twenty figure was just  
15 being conservative in order not to burden your pensions  
16 with permanent employees?

17 A. Well, it was conservative to  
18 ensure that, in the light of experience, we were  
19 going to staff properly on a continuing basis in the  
20 light of our own experience, not in the light of  
21 someone else's experience.

22 COMMISSIONER SMITH: Mr, Baxter, I  
23 assume -- and you can correct me if my assumption is  
24 wrong -- that these prevailing rate pilots enjoy all  
25 the benefits and all the privileges of other government  
26 prevailing rate employees?

27 THE WITNESS: That is right.

28 COMMISSIONER SMITH: The fringe benefits?

29 THE WITNESS: Yes.

30 MR. JACQUES: Q. That is, whether





1 they are permanent or casual?

2 A. No; the casuals don't enjoy --  
3 you have to be occupying a continuing position to enjoy  
4 all the fringe benefits.

5 Q. And which fringe benefits would  
6 a casual employee enjoy?

7 A. A casual employee would not enjoy,  
8 in the normal sense, any of them other than those  
9 provided by provincial law such as annual vacation  
10 pay...

11 Q. Statutory holidays?

12 A. ...workmen's compensation -- things  
13 of that nature. He would get his statutory holidays  
14 at the end of his period of employment.

15 Q. Have you with you the relevant  
16 Treasury Board minutes with regard to the employment  
17 of pilots in District 2?

18 A. There has been a lot of them.  
19 You mean in relation to this specific matter here?

20 Q. You must have one for 1959?

21 A. We didn't start to operate in 1959,  
22 did we?

23 Q. Yes; you started in April 1959?

24 A. I had forgotten. That one that I  
25 first showed you would be the one taking care of it  
26 at that time.

27 Q. And that bears what date?

28 A. January 28, 1960.

29 Q. January 28, 1960?

30 A. Yes... No; May 26, 1959 was the





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1 first.

2 Q. And this was the Treasury Board  
3 minute effective April 1st 1959?

4 A. Yes.

5 Q. Could we have this minute in order  
6 that we might file it?

7 A. Yes.

8 THE CHAIRMAN: It will be Exhibit 1397.

9 MR. JACQUES: We already have some  
10 minutes filed, My Lord. I am informed that we  
11 already have this Treasury Board minute as Exhibit 1014;  
12 and we have them for 1959, 1960, 1961 and 1962.

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1 THE CHAIRMAN: Under the same number?

2 MR. JACQUES: Under the same number as  
3 Exhibit 1014.

4 Q. The next part of the question  
5 refers to a letter to pilots dated September 7, 1960,  
6 which mentions 50 hours of actual piloting time. I  
7 believe that the explanation which you gave a moment  
8 ago would be valid for that also?

9 A. Yes.

10 Q. The next paragraph reads: Are  
11 pilots employed on a regular shift cycle basis within  
12 the meaning of Section 10(1) of the prevailing rate  
13 employees regulations?

14 A. No, they are not.

15 Q. On what basis are they employed?

16 A. You mean what form of contract  
17 of employment do we have with them?

18 Q. Yes.

19 A. Basically it is pay which  
20 recognizes all hours of work, all overtime and all  
21 conditions of employment.

22 MR. JACQUES: Thank you.

23 COMMISSIONER RENWICK: One question to  
24 clarify my notes here: With respect to holidays the  
25 first year,  $3\frac{1}{2}$  days, do I understand the word "full"  
26 is in there? First full year?

27 THE WITNESS: No, first completed season.

28 COMMISSIONER RENWICK: Thank you very  
29 much.

30 MR. MACGILLIVRAY: Mr. Baxter, in





1 connection with the decisions in 1959 to establish  
2 only 20 full-time positions instead of the possible  
3 29, would it not be correct to say that in spite of  
4 the criticism that often is levelled at the government  
5 of empire building, you were in fact aware of  
6 Parkinson's Law and were endeavouring to circumvent  
7 it? That is to say --

8 MR. LALONDE: Parkinson had not written  
9 it at that time.

10 MR. MACGILLIVRAY: We knew all about it.  
11 Is it not true that this is the normal Civil Service  
12 approach to any problem, that until the need for  
13 positions can be demonstrated they try and get along  
14 without them, and in this case they did it by  
15 providing this authority to engage casuals to fill in the  
16 blanks?

17 THE WITNESS: That is so.

18 MR. JACQUES: That is rather strange in  
19 view of the statement which was made by an economist  
20 some time ago that Canada is the country in the world  
21 which has the greatest number of civil servants per  
22 thousand of population.

23 THE WITNESS: To say I took that into  
24 consideration I am afraid I cannot.

25 THE CHAIRMAN: It is out of the scope of  
26 this inquiry. It is large enough without getting into  
27 that.

28 MR. BRISSET: In the case of employees  
29 working an eight-month season, are the leave credits  
30 taken after the season?





1 THE WITNESS: Yes.

2 CROSS-EXAMINATION BY MR. LALONDE:

3 Q. When you refer to these leave  
4 credits after the season, you mean that they get  
5 salary for the leave they didn't take during the year?

6 A. They get credit for the annual  
7 leave and statutory holidays they didn't take. Not  
8 the sick leave.

9 Q. Then they are paid for that?

10 A. Pardon?

11 Q. They get it in cash?

12 A. They are continued on the payroll  
13 for the period that would be recognized for the  
14 accrual of leave and statutory holidays.

15 Q. You mentioned that the year for  
16 these pilots was considered to be eight months or that  
17 you take into account in the calculation the fact that  
18 they would work only eight months of the year?

19 A. For leave purposes it is an  
20 eight-month year.

21 Q. Is it used for any other purpose?

22 A. The working year, if my memory  
23 serves me correctly, for pilots, is from April 15 to  
24 December 1st.

25 Q. Yes?

26 A. Regulations applying to all other  
27 civil servants don't recognize part months for accrual  
28 of leave thus this makes it an eight-month season for  
29 leave purposes.

30 Q. Now, do you apply that rule for







1 something else than leave purposes? I am referring  
2 here especially to superannuation.

3 A. No, not that I can think of,  
4 if I understand your question well.

5 Q. When are you superannuated when  
6 you are a prevailing rate employee? When are you  
7 entitled to pension fund contributions and benefits?

8 A. Well, you are getting into a  
9 very technical area of superannuation, and I would  
10 prefer only to answer this, My Lord, in a general way.

11 THE CHAIRMAN: Yes.

12 THE WITNESS: Because these are legal  
13 rights and privileges, and if you wish to have accurate  
14 and thorough information on the Superannuation Act I  
15 think you should have a specialist here. But in general  
16 terms the answer to your question is that the  
17 compulsory retirement age under the Superannuation Act  
18 is 65 with the Department having the right to extend  
19 other than a very few types of very senior employees  
20 to 70 years of age.

21 Q. Yes?

22 A. An employee after certain periods  
23 of employment, if he should get ill is eligible for  
24 certain benefits on superannuation because he has to  
25 leave his job due to illness.

26 Q. Yes?

27 A. There are other privileges he  
28 can have such as deferred adjustments to annuity after  
29 certain other periods of employment, but the super-  
30 annuation aspect of this is based on contributions which





1 are related to periods of employment.

2 Q. Yes. My question is whether  
3 their years are counted as being eight months or  
4 whether they have to accumulate twelve months of  
5 actual employment under the prevailing rate employees  
6 regulations to make it count for a year? Do you  
7 see my point?

8 A. I think this is right. I think  
9 under the Superannuation Act his period is counted up  
10 in months, and measured into years for purposes of  
11 superannuation.

12 Q. So that for purposes of  
13 superannuation he would have to work, actually have  
14 been in the employment and working for the government  
15 for 12 months; not eight months?

16 A. That is right, because his  
17 contributions would be on that basis.

18 Q. You are aware of a request of  
19 pilots that their payment, their salaries, be extended  
20 over a 12-month period rather than be paid over 8  
21 months so that they could be covered -- so that their  
22 year should cover 12 months?

23 A. That is right.

24 Q. And not only 8 months. You are  
25 aware of that?

26 A. And the Department is very  
27 sympathetic to this, and has made efforts to have the  
28 compensations spread over a 12-month period. You  
29 recognize, of course, and again I am in an area which  
30 is not mine, that the contribution for the period of





Baxter, cr-ex  
(Lalonde)

1 non-employment, the double contribution would have to  
2 be paid by the pilot. He would have to pay 13%. The  
3 government couldn't pay his contributions for the  
4 period of non-employment.

5 Q. Even if the same salary were  
6 spread over 12 months?

7 A. This is right. He could only  
8 be paid for the --

9 Q. I'm sorry. Suppose he gets  
10 \$8,000.00 for 8 months, and rather than receiving it  
11 over 8 months he receives it over 12 months. Still he  
12 would have to pay for the four additional months, the  
13 full 13%?

14 A. No, I think in that sense the  
15 contributions would be spread also over the 12 months.

16 Q. I see.

17 A. Now again that is only my  
18 personal view. There is no precedent.

19 THE CHAIRMAN: But there is another side  
20 to it. He would lose the unemployment insurance for  
21 the four months?

22 THE WITNESS: There is no provision for  
23 this, My Lord.

24 MR. LALONDE: Q. I understand a lot  
25 of the pilots are proud enough to turn that down.

26 Notwithstanding the Department's  
27 sympathy you have shown over the pilots destiny, you  
28 have not been able to succeed in this matter?

29 A. Not as yet, no.

30 Q. You were referring to 50 hours a







Baxter, cr-ex  
(Lalonde)

1 week, and the document filed here as Treasury Board  
2 minutes, April 1st, 1959, says that the work week  
3 shall consist of 48 hours with compensation to be paid  
4 on the basis of a 6-day week?

5 A. Yes.

6 Q. Where does this 50-hour week  
7 fit in?

8 A. This is going to be very  
9 difficult to explain I would think. I said we were  
10 staffing to a 50-hour week. I am not sure if the  
11 previous Treasury Board minute did not indicate that  
12 compensation was established to include all hours  
13 worked and all overtime worked.

14 The purpose of this particular  
15 item, under another part of the regulations it is  
16 necessary to provide a method of accruing leave to  
17 establish a work week. This 48-hour item that you  
18 are referring to there was established for leave  
19 purposes.

20 THE CHAIRMAN: In other words, it is  
21 very difficult to apply the occupation of pilots into the  
22 categories you have for other occupations?

23 THE WITNESS: That is right.

24 MR. LALONDE: Q. So that in effect, if  
25 I understand you well, while the idea was to have -- for  
26 staffing purposes you said you use the 50-hour week,  
27 and for payment purposes you have a 48-hour week?

28 A. For accrual of leave purposes,  
29 48-hour week.

30 Q. But here I read the Treasury Board





1 minute, paragraph A and B together, and it says under  
2 (A) \$950.00 per month and no additional payment will be  
3 made for overtime?

4 A. That is right.

5 Q. And the next paragraph says  
6 under provisions of Section 4(a) and so on, the work  
7 week shall consist of 48 hours with compensation to  
8 be paid on the basis of a 6-day week?

9 A. That is right.

10 Q. What does that mean?

11 A. Number 1 means that in their  
12 compensation --

13 Q. Yes?

14 A. -- they are having all hours  
15 worked recognized without any further payment of  
16 overtime.

17 Q. Yes?

18 A. Under standard procedures where  
19 you have a work week of 48 hours and you work in  
20 excess of that you would be paid overtime.

21 Q. Yes?

22 A. So the two would appear to be  
23 contradictory.

24 Q. Yes.

25 A. However, the point of the second  
26 one was establishing, as I said earlier, a work week  
27 for the purpose of accrual of leave, the first one  
28 being the governing one in relation to payment of  
29 overtime.

30 Q. Supposing a pilot had been working





1 more than 48 hours per week?

2 A. They would get no additional  
3 compensation.

4 Q. No overtime and no annual leave;  
5 no increase in annual leave or anything?

6 A. This is standard for all  
7 employees of the government service. You don't get  
8 extra leave for any overtime you work. You get  
9 extra pay.

10 Q. So that the 48-hour point there  
11 was to be only for the purpose of --

12 A. Legal requirement of leave.

13 Q. How would that affect the  
14 legal requirement of leave?

15 A. Without a work week we had no  
16 means of establishing a method of accrual.

17 Q. And if the pilots were working  
18 less than 48 hours in effect would that affect this  
19 provision at all?

20 A. No, because in the first paragraph  
21 this authority indicated that they would be paid this  
22 monthly compensation for all hours worked. If they  
23 worked less, as is indicated in the early season, we  
24 don't reduce their compensation. We keep it constant  
25 throughout the year, and if we should have happened to  
26 have a volume of shipping go to a point where they all  
27 wouldn't work 50 hours a week, there would be at that  
28 stage no reduction in compensation.

29 Q. Yes. What is the use of  
30 mentioning on the basis of the 6-day week? What is that







Baxter, cr-ex  
(Lalonde)

1 referring to?

2 A. Well, basically --

3 Q. What has this got to do with  
4 pilotage?

5 A. As I say, this particular clause  
6 was put in purely to meet -- by the Central Agency --  
7 purely to meet requirements for leave purposes as is  
8 required by the Pay Office before they would be permitted  
9 to grant any accrual, and if you can't get an accrual,  
10 you couldn't grant leave.

11 MR. JACQUES: Why not just say one week?

12 THE WITNESS: I don't know why they didn't  
13 say one week. We don't draft this type of thing. It  
14 comes back to us from the Central Agency in this manner  
15 in order to meet the statutory requirements for pay.

16 THE CHAIRMAN: It could mean 18 days of  
17 work means three weeks and not two weeks and four days.

18 MR. LALONDE: Q. Now, referring to this  
19 50-hour week?

20 A. Yes?

21 Q. Do you know whether this included  
22 work on Lake Erie?

23 A. No, I don't.

24 Q. You don't know?

25 A. No.

26 Q. Who was responsible to check  
27 whether the average was much over a 50-hour week or  
28 below a 50-hour week?

29 A. The responsibility to check  
30 extension of abnormal hours either way would be on the





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Baxter, cr-ex  
(Lalonde)

local representative.

1 Q. I see.

2 A. In the first instance.

3 Q. But you don't know what was  
4 to be exactly in this 50-hour week in the sense that  
5 you don't know when pilots were travelling across Lake  
6 Erie this was intended to be included or not in the  
7 50-hour week?

8 A. No. The offer of employment  
9 said they would be required to work 50 hours a week,  
10 and interpretation was given to them that this was  
11 bridge time.

12 Q. Where was this information given?  
13 Do you have it?

14 A. I think those documents have  
15 already been filed.

16 Q. You are referring to a letter  
17 of September 7, 1960, which has been filed as  
18 Exhibit 1044. I draw your attention to the fact that  
19 this letter is dated a year and a half after the  
20 system was established.

21 A. That is right.

22 Q. My question was, when was the  
23 50-hour week established and made known to the pilots?

24 A. I'm sorry, I can't tell you that.  
25 I can't answer that.

26 Q. I submit to you that no document  
27 before this letter of September 7, 1960, was sent to  
28 pilots advising them what their work week would be?

29 A. I would have to review the files  
30 to be sure.





1 THE CHAIRMAN: Right.

2 MR. LALONDE: Q. So a 50-hour work  
3 week was arrived at. Was it arrived at by you or by  
4 your Personnel Division or somebody else?

5 A. No.

6 Q. Who established the 50-hour  
7 work average?

8 A. Personnel Division is purely  
9 an advisory Division. The decision on rates of work  
10 was decided by the Department, the senior head being  
11 the Minister and the Deputy Minister. The policy  
12 decision was made in the standard method of making  
13 policy in the government service.

14 Q. Were you the one who arrived  
15 at that conclusion of a 50-hour week?

16 MR. MACGILLIVRAY: My Lord, I think I  
17 have previously objected to questions which are trying  
18 to pin down individuals in the Department on what  
19 individuals made what recommendations to the head of  
20 the Department. Surely the important thing is what  
21 decision was made by the head of the Department and  
22 not which were the individuals who advised him to make  
23 it.

24 THE CHAIRMAN: Yes, but Mr. Lalonde is  
25 not trying to pin that down to one individual. He is  
26 trying to find out what was the reason behind this  
27 policy.

28 MR. LALONDE: How it was arrived at, My  
29 Lord. Whether it is Mr. Baxter or somebody else, I  
30 do not care. Was it the pilotage section which







1 established it or is this a decision made by Personnel,  
2 or was it made by Treasury Board or another Department?

3 MR. MACGILLIVRAY: There again, My  
4 Lord, the witness has answered that it is a decision of  
5 the Department -- or at least whatever recommendation  
6 goes to Treasury Board is the decision of the Department  
7 and the Minister in making a submission to Treasury  
8 Board may take the advice of his Personnel Branch, of  
9 his Law Branch, his Pilotage Branch and many others.

10 MR. LALONDE: Well then, let us get  
11 Mr. Baldwin in the box.

12 THE CHAIRMAN: Would it matter very much  
13 whether you know which part of the Department it was?  
14 What you are trying to find out is the reason for  
15 putting 50 and not 60 or 60 and not 50 -- 45, 48?

16 MR. LALONDE: Exactly -- how was it  
17 arrived at?

18 MR. BRISSET: Does it matter, My Lord,  
19 whether it is 40 or 60? We are not dealing with  
20 carpenters or plumbers; we are dealing with pilots.

21 MR. LALONDE: I understand it matters quite  
22 a lot to the pilots whether they are going to be con-  
23 sidered as working 70 hours a week or 40 hours a week  
24 for whatever purpose it is.

25 MR. BRISSET: As I understand it, they  
26 are considered to be working 50 hours a week. Whether  
27 they do or do not they are paid on that basis and that  
28 is all.

29 MR. LALONDE: They are staffed on that  
30 basis, I presume.





1 MR. BRISSET: They are paid on that  
2 basis too.

3 MR. LALONDE: No, they are not paid on  
4 that basis because they may work overtime. The text  
5 says quite clearly they will work as much overtime  
6 as required and they will not get paid for that.

7 MR. BRISSET: Whether they work 30 or  
8 70 hours they are paid on the basis of 50.

9 MR. LALONDE: No, they are not paid  
10 on the basis of 50. That is not the point.

11 THE CHAIRMAN: I am sure if this figure  
12 was put there there is a reason for it. You are quite  
13 right to find out why this figure was quoted and not  
14 10 hours, let us say.

15 MR. LALONDE: Yes.

16 THE CHAIRMAN: Because it has to apply,  
17 I suppose, to special regulations that exist. They have  
18 to tally. They have to apply to the special situation  
19 of the pilots themselves -- the programme that makes  
20 prevailing rate employees very difficult to apply  
21 because pilotage really does not compare with another  
22 class. It is in a class by itself.

23 MR. LALONDE: Q. You have this letter  
24 of September 7th, 1960 of Mr. Cumyn addressed to the  
25 pilots saying that they cannot understand why the  
26 pilots complain about overtime -- not overtime, being  
27 overworked -- and that it was understood they would  
28 have a 50-hour week. So it certainly has some impact  
29 on staffing, I presume -- or has it not, Mr. Baxter?

30 A. Well, as I said earlier, we staff





1 to a 50-hour week.

2 Q. You staff to a 50-hour week?

3 A. And as My Lord has said, and this  
4 gentleman over here also, there are periods where they  
5 do not work 50 hours a week, but they are paid on the  
6 basis; they are totally compensated on a monthly  
7 basis for the hours they work with it being averaged  
8 throughout the year.

9 Q. I do not want to be repetitious,  
10 but how was the 50-hour week arrived at?

11 A. I think I answered that earlier  
12 when the other gentleman asked it.

13 Q. Why was 50 hours established?

14 A. The 50 hours was established  
15 taking generally into consideration the experience  
16 of the Shipping Federation and providing casual  
17 positions which could be used in the event that this  
18 was not a suitable figure in the first year of a new  
19 operation.

20 Q. What specific ---

21 A. In the absence of any experience --

22 Q. Excuse me; I am asking a  
23 question. What specific information did you have from  
24 the Shipping Federation? You said you established this  
25 on the basis of the Shipping Federation, this 50-hour  
26 week.

27 A. I cannot answer this one to my  
28 own specific knowledge because I have no personal  
29 knowledge, but in a matter of this kind the operating  
30 end of the Department who are the specialists in this









1 area....

2 Q. Yes?

3 A. Analyze the situation.

4 Q. Yes?

5 A. And if my memory serves me  
6 correctly they analyzed the experience of the Shipping  
7 Federation and arrived at the conclusion that this  
8 was something that might be a possible solution to a  
9 problem that we had never been faced with before.

10 Q. I see, and they arrived to you  
11 with the recommendation for 20 full-time ---

12 A. You said the 50-hour week.

13 Q. They said a 50-hour week?

14 A. That is right.

15 Q. But they did not arrive at  
16 20 ---

17 A. The numbers of employees were  
18 less, as has been established, than were employed by  
19 the Shipping Federation. As earlier observed, this  
20 was done with a view to having a conservative approach  
21 to staffing with any emergencies being taken care of  
22 through the use of casual employees.

23 Q. I am sorry if my English is not  
24 proper, Mr. Baxter, but I will repeat it again. You  
25 said the operating end of the Department -- referring  
26 by that, I suppose, to the pilotage division or section;  
27 is that correct?

28 A. This is one of the operating  
29 sides of the Department.

30 Q. They arrived at a 50-hour week





1 as a reasonable average, you said? On that basis  
2 they recommended to you a 20 ---

3 A. No, they did not recommend to me,  
4 no.

5 Q. So you decided that it would  
6 be 20?

7 A. No, the Department -- the officers  
8 of the Department having taken everything into  
9 consideration.

10 Q. Yes.

11 A. With advice from the operating  
12 side, the legal side, the personnel side and all the  
13 other aspects, the financial side of the Department.  
14 With these being submitted as a policy for policy  
15 consideration it was decided that this was the  
16 procedure that would be followed. It was a departmental  
17 decision.

18 Q. What do you mean by the  
19 operating end of the Department again? Concerned with  
20 pilotage?

21 A. If you want to take the latter  
22 organization....

23 Q. I am referring to a specific  
24 question, a question like this as to staffing.

25 A. The staffing requirement or  
26 policy, because there are four hands on straight policy,  
27 outlined policy -- through the Chief of Nautical Services  
28 to the Director of Marine Regulations to the Assistant  
29 Deputy Minister Marine and to the Deputy Minister and  
30 to the Minister.





1 Q. But you referred in your  
2 previous answer to the Financial Section, the Personnel  
3 Section, the Legal Section and the Pilotage Section?

4 A. That is right. We have to  
5 insure, in relation to the policies being established  
6 there is money available, that there are the aspects  
7 of recruitment and selection and all the other aspects  
8 that go into the acceptance of such a policy before  
9 you start into a programme.

10 Q. I see. When was the request for  
11 20 permanent employees sent to the Treasury Board?

12 A. I have not got the date of the  
13 submission to the Board. Just a minute -- maybe I  
14 have.

15 No, I have not got the date of  
16 the submission, but I would think it was in March.

17 Q. Of 1959?

18 A. March of 1959, because the  
19 authority from the Board is March 26th, 1959.

20 Q. The authority to employ 20 men?

21 A. Yes.

22 Q. The authority is in March, 1959  
23 and you do not have ---

24 A. I have it here but the date is  
25 not on the piece of paper I have. I have the submission  
26 but the date is not on it.

27 Q. Would it be fair to say that this  
28 decision to arrive at 20 was made in 1958?

29 A. My memory does not go back that  
30 far; I could not say.







1 Q. And your submission to the  
2 Treasury Board was for 20 permanent employees?

3 A. The departmental submission to  
4 the Treasury Board.

5 Q. For 20 permanent?

6 A. Yes.

7 Q. And how many casuals?

8 A. The total casuals, which is a  
9 very fluid thing, are not keyed to any one particular  
10 location. In this particular area it would work out  
11 to about somewhere between five and fifteen man years  
12 depending upon requirements. In a casual situation you  
13 can draw on other establishments to meet your requirements.  
14 For this particular exercise, however, it was five man  
15 years that were requested. But again you have a general  
16 pool of casuals for your purposes that may go as high  
17 as a thousand man years. You throw all these into the  
18 pool and use these casuals for many kinds of emergencies.

19 Q. Is this submission referring to  
20 other than the Port Weller/Sarnia District?

21 A. Yes, this submission does.

22 MR. JACQUES: You may as well file the  
23 submission, if there is no objection, as Exhibit No. --

24 THE CHAIRMAN: Wait a minute.

25 MR. MACGILLIVRAY: Is it the submission  
26 you want filed or the Treasury Board minute?

27 MR. JACQUES: The submission.

28 MR. MACGILLIVRAY: Normally I think we  
29 have not, My Lord, been filing our submissions to the  
30 Treasury Board. Surely what the Treasury Board decided





1 is what is of interest to the Commission. I am in  
2 your hands, My Lord, if you think we should have the  
3 submission, but surely what is important to the Royal  
4 Commission must be what actually the situation is --  
5 what was approved by Treasury Board.

6 MR. LALONDE: I submit, My Lord, there  
7 is more than that to it. Take a hypothetical case  
8 that the Pilotage Section in the Department of Transport  
9 would have come to the conclusion that 35 men were  
10 required or 30 men were required and the Financial  
11 Division in the Department of Transport would have  
12 come to the conclusion that no, they would not risk  
13 themselves for that much and it should go to 25 because  
14 of the financial implications in terms of superannuation  
15 and all that. And finally the Deputy Minister would  
16 have settled for 25 and then it goes to Treasury Board  
17 where some accountant there says: "This year we can  
18 employ only so many thousand more civil servants," and  
19 bang, we have orders to cut every staffing by 10%. That  
20 has happened in the past.

21 THE CHAIRMAN: In other words that  
22 mechanism is something that is tied down with the  
23 question of prevailing rate employees.

24 MR. MACGILLIVRAY: It is indeed.

25 THE CHAIRMAN: And the factor of the  
26 intervention of Treasury Board and the decisions they  
27 may take to limit the authority of the Department,  
28 this is a factor that we have to know. I think Mr.  
29 Lalonde is right on that.

30 MR. MACGILLIVRAY: Very well, My Lord.





1 THE CHAIRMAN: So would you file the  
2 statement?

3 MR. JACQUES: We may just file the  
4 Treasury Board minutes also.

5 MR. LALONDE: Yes.

6 THE CHAIRMAN: So we can see just as an  
7 example what may happen.

8 ---EXHIBIT NO. 1397: Submission of DOT to Treasury  
9 Board together with Treasury  
Board minutes.

10 THE CHAIRMAN: We are not going to review,  
11 of course, the merit of that decision. It is only that  
12 we will know as an example that this may happen.

13 MR. LALONDE: Q. No doubt you knew  
14 that in 1959 the new St. Lawrence Seaway was going to be  
15 opened, did you not?

16 A. Oh, but yes, yes.

17 Q. And you did not expect in spite  
18 of that that a larger number of men would be required  
19 after the opening of the Seaway than before?

20 A. The procedures of the government  
21 permit that had this been the case you could always  
22 get emergency authority through which to meet your  
23 requirements.

24 Q. I notice that on this submission  
25 you had finally an approval, general Treasury Board  
26 approval for 45 positions as ships' pilots?

27 A. If you match that to the  
28 submission you will find there are a number of locations  
29 mentioned in the submission. They have totalled the  
30 number of positions in bulk.







1 Q. You have 25 ships' pilots  
2 prevailing rate for the Cornwall-Kingston area?

3 A. Right.

4 Q. With the Treasury Board approval  
5 for 45 positions as a chain or as a group you could  
6 not take -- I understand you did not need 25 prevailing  
7 rate employees in Kingston; is that correct?

8 A. That is right.

9 Q. You could not employ more pilots  
10 in the Port Weller/Sarnia District since you had  
11 extra men which you did not need at all?

12 A. Extra positions?

13 Q. Yes.

14 A. With Treasury Board authority  
15 we could.

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1 THE CHAIRMAN: So with Treasury  
2 Board approval there you have more leeway than you  
3 ask in the submission?

4 THE WITNESS: The way the thing  
5 turned out we had more than we required in our sub-  
6 mission, yes.

7 MR. LALONDE: Thank you.

8 THE CHAIRMAN: Mr. Brisset, have you  
9 any questions?

10 MR. BRISSET: No.

11 MR. JACQUES: The next question you  
12 have been directed to answer is question No. 10,  
13 again applying to pilotage district No. 2. The  
14 question refers to a letter which was addressed to  
15 Mr. Lalonde, and I might read an excerpt from this  
16 letter:

17 "On the first point, it is considered  
18 you could qualify yourself to request a meeting  
19 on behalf of these men..." -- that is, the district  
20 No. 2 pilots -- "...if you furnished to the  
21 Department the written statements signed by  
22 the employees themselves, or by one or more  
23 of them duly authorized to do so..."

24 I want to know whether, with respect to prevailing rate  
25 employees, this is the usual procedure?

26 A. This is the usual procedure.

27 Q. Even when a solicitor is acting on  
28 behalf of them?

29 A. Yes, this is the usual procedure.

30 Q. Is that right?





1 A. Yes.

2 Q. If I were acting for a group of  
3 pilots you would want from me written authority to  
4 do so?

5 A. We would want the request for the  
6 meeting to come from the pilots. You could  
7 accompany the pilots as their solicitor.

8 Q. But I couldn't request a meeting?

9 A. If they are employees of the  
10 Department?

11 Q. Yes; always.

12 A. We are talking about District 2?

13 Q. Yes; I am not talking about people  
14 in general.

15 A. The Department meets only with its  
16 employees. That is our policy. But the employees  
17 may have legal representation, or representation of  
18 non-employees who are credited officers of other unions,  
19 federations, or associations. That is our policy.

20 THE CHAIRMAN: But the mandate has  
21 to be expressed? There has to be an express mandate?

22 THE WITNESS: Yes.

23 MR. JACQUES: Q. In other words,  
24 you don't prevent your employees being represented by  
25 a solicitor?

26 A. No.

27 Q. But if that is the case, you don't  
28 class the solicitor in a class apart from representatives  
29 in general?

30 A. No, not for this purpose.







1 Q. Notwithstanding what the Bar Acts  
2 of the various provinces may say about it?

3 A. That is right.

4 MR. LALONDE: Would you please read  
5 what regulations you are basing yourself on in connection  
6 with such a conclusion? What regulation...?

7 THE WITNESS: There is no regulation.

8 MR. LALONDE: There is no regulation  
9 that you can quote, then?

10 THE WITNESS: I can't quote any  
11 regulation other than the Financial Administration Act  
12 which holds the Deputy Minister responsible in many  
13 of its sections for management of his department.

14 MR. JACQUES: Q. And this is the  
15 ministerial position?

16 A. The policy is the Departmental  
17 policy.

18 Q. The Departmental policy?

19 A. Yes.

20 Q Is this policy laid down anywhere  
21 in writing?

22 A No -- yes; it is laid down in  
23 this form in writing.

24 Q. And this is called "Employee  
25 Group Relations. Personnel Service Division,  
26 Department of Transport"?

27 MR. JACQUES: I should like to file  
28 this document as Exhibit 1398.

29  
30 --- EXHIBIT No. 1398: Document entitled "Employee  
Group Relations, etc.





1 MR. JACQUES: "This booklet contains  
2 the policy which is to be followed concerning employee  
3 group relations in the Department of Transport."

4 Would you point out the section of this  
5 pamphlet which is applicable to the case?

6 A. Yes.

7 Q. This is paragraph 3 point two:

8 "An employee group may be represented  
9 by one or more of its members in group con-  
10 sultation with Departmental representatives  
11 and may be accompanied and assisted by non-  
12 employees who are accredited officers of  
13 the Union Federation Brotherhood Employee  
14 Association, or other organizations with  
15 which the group is associated." But could you  
16 find in this pamphlet any mention of any restriction  
17 on the normal right of solicitors to appear and  
18 represent their clients?

19 A. No; at the time this was written  
20 apparently the legal profession were not interested  
21 in employer relations. The amendment which is to be  
22 issued will add legal solicitors to this clause.

23 Q. And all legal solicitors will  
24 have to obtain -- not even obtain; they would have to  
25 request their client to request a meeting from you?

26 A. No; it will still be that the  
27 employees will have to request the meeting. They  
28 may be aided by counsel.

29 CROSS-EXAMINATION BY MR. LALONDE:  
30





1 Q. When was this regulation made --  
2 this statement of policy made?

3 A. It is quite a time -- ten years  
4 ago.

5 Q. This is another document which seems  
6 to bear no date. I see it was printed in 1960?

7 A. As I say, the original policy was  
8 about eight or ten years ago.

9 Q. But since it was reprinted in 1960  
10 it is still pretty well up to date?

11 A. Reasonably, yes.

12 Q. And at the time the request was  
13 made it is your view that there was no special  
14 provision that a legal representative or a solicitor  
15 should have the type of specific document you refer to?

16 A. I am not sure I follow you.

17 Q. I will explain to you...

18 A. This is the policy of the Deputy  
19 Minister in that particular area in the face of a new  
20 circumstance that applied for representation other than  
21 union staff associations; and he could extend it, which  
22 he has done, to meet other situations, too.

23 Q. So you feel that there will be  
24 an amendment to this provision covering the case of  
25 legal solicitors later?

26 A. Yes.

27 Q. But there is, in effect, no such  
28 provision...

29 A. Although the practice has taken  
30 place it has not been published.







1 Q. It has taken place in practice.  
2 Did you ask the Deputy Minister, when this particular  
3 request was presented, whether this included solicitors,  
4 or not?

5 A. Did I ask the Deputy Minister?

6 Q. Did you ask for an explanation  
7 of the policy, or did you reach the decision on your  
8 own that solicitors had to get an express mandate from  
9 their clients?

10 A. The policy decision of the Department  
11 is contained in the letter which was addressed to you.

12 Q. Yes; signed by Captain Slocombe?

13 A. That is right.

14 Q. And the policy decision of the  
15 Department -- Captain Slocombe testified that that came  
16 from you?

17 A. The policy decision didn't come  
18 from me.

19 Q. That he was instructed by you to  
20 request such a document?

21 A. No. "Instruct," I think, perhaps,  
22 would be an unfortunate word. The advice from me was  
23 that this policy covered this situation.

24 Q. And this is a decision which you  
25 took on your own?

26 A. That was my advice.

27 Q. And your interpretation of the  
28 regulation?

29 A. My interpretation of the policy.

30 Q. Yes; you didn't check your





1 interpretation of the policy with the Deputy Minister  
2 in that particular respect?

3 A. I believe I did.

4 Q. You believe you did?

5 A. Yes.

6 Q. Certainly you did this by writing?

7 A. I didn't do it by writing.

8 Q. Are you sure you phoned?

9 A. I am certain that this was  
10 discussed with the Deputy Minister.

11 Q. Afterwards, or before?

12 A. Before the letter was written.

13 Q. I submit to you that it was  
14 discussed after I did write to the Minister about it?

15 A. This I don't know.

16 Q. Is it possible?

17 A. It could be possible.

18 Q. And I submit that the meeting took  
19 place after without my having to provide any mandate  
20 whatever?

21 A. It could be possible at that time  
22 as well as before.

23 Q. And I submit that the meeting took  
24 place without any mandate being required, which would  
25 imply that there was a change in the policy, would it?

26 A. This could be.

27 Q. You were present at that meeting  
28 which I attended in regard to pilots?

29 A. But not District 2.

30 Q. Yes?





1 A. But in relation to other aspects  
2 in addition to District 2.

3 Q. Exactly on the same problem  
4 mentioned in the letter?

5 A. But in relation to private  
6 entrepreneurs this letter does not apply.

7 Q. In relation to what?

8 A. The other pilots.

9 Q. I am referring to District 2  
10 pilots?

11 A. Yes.

12 Q. I submit to you -- anyway, you  
13 will have time to check in your files, and I submit  
14 that you will not find any specific mandate as  
15 requested by the letter of Captain Slocombe, and that  
16 the meeting took place without that, which would somehow  
17 imply a change in the policy of the Department.

18 THE CHAIRMAN: Are there any further  
19 questions on this matter? The next question.

20 MR. LALONDE: Q. Will you check  
21 whether there is any such document?

22 A. Yes.

23 THE CHAIRMAN: If you say there was  
24 none then unless they want to prove the contrary we will  
25 accept that there is none.

26 MR. LALONDE: I am glad to hear that  
27 this Commission relies on the Bar Act.

28 MR. JACQUES: Q. Now, Question  
29 No. 13 concerns the superannuation for the District 1,  
30 2 and 3 pilots: Explain how they are kept and how







1 the rate of contribution of prevailing rate employees  
2 is arrived at?

3 A. I understood that this information  
4 had been made available. Am I correct? If this is  
5 not the case then I am afraid I am not competent to  
6 answer matters in the field of superannuation.

7 Q. We have received no information  
8 with respect to that question.

9 A. Well, I have information here which  
10 I can leave with you, but to answer technical questions  
11 on superannuation I feel you should have a specialist  
12 here.

13 THE CHAIRMAN: All right.

14 THE WITNESS: If there is any general  
15 aspect of it that I could help you with I would be  
16 happy to give my opinion.

17 THE CHAIRMAN: It would be more than  
18 that.

19 THE SECRETARY: It is sufficiently  
20 technical to have a technical expert.

21 THE CHAIRMAN: We would like to have  
22 these documents filed so that they can be studied.

23 THE WITNESS: We have no authority  
24 whatsoever over any sections of the Superannuation Act.

25 MR. JACQUES: We will make arrangements  
26 to have someone to appear before you, My Lord.

27 THE CHAIRMAN: To appear shortly.

28 MR. JACQUES: Very, very shortly indeed;  
29 at the latest, tomorrow.

30 Question No. 14: What were the





1 recommendations made to the Department by the Port  
2 Weller supervisor regarding the qualifications and  
3 working conditions of despatchers, and what action was  
4 taken on them?

5 A. Well, the supervising pilot at  
6 Port Weller asked us to review the workload in relation  
7 to despatchers, and we put a survey team on this.

8 Q. And you sent a survey team on this  
9 when?

10 A. June 12th 1964 was when the  
11 recommendation came in from the supervising pilot.

12 Q. And who was included in this  
13 survey team?

14 A. The survey team consisted of an  
15 officer from the Organization Research Section and  
16 from the pilotage section.

17 Q. And the team went out in June 1964?

18 A. No; the request came from the  
19 supervising pilot in June 1964 and they started their  
20 study following the receipt of that letter. The  
21 material -- the study -- was completed some time around  
22 the 1st of August in time for us to put into our  
23 staff planning for next year recommendations for a  
24 change in classification for the operating clerks  
25 from Grade 1 to Grade 2, and for the provision of  
26 an additional chief despatcher.

27 Q. And what is this Grade 1 to Grade 2?  
28 Does it entail an increase in salary?

29 A. An increase in salary.

30 Q. By how much, roughly?





1 A. I don't know.

2 Could I ask Mr. Farquharson?

3 MR. FARQUHARSON: Roughly \$240.

4 MR. JACQUES: Q. \$240 a year of an  
5 increase?

6 A. Yes; and one additional position  
7 on the establishment for a chief despatcher. This  
8 has been recommended in our estimates for next year.

9 The approval of the Civil Service  
10 Commission has not yet been received because it is part  
11 of a current program and will be dealt with between  
12 now and the first of April.

13 Q. The first of April next year?

14 A. Yes, that is right.

15 Q. We had it in evidence that the  
16 supervisor in Port Weller tried to obtain work for  
17 the despatchers during the winter. Are they not on  
18 a 12-months' basis?

19 A. No.

20 Q. They are seasonal employees?

21 A. Yes.

22 Q. Prevailing rate employees?

23 A. No, they are under the Civil  
24 Service Act.

25 Q. There was also the question of  
26 these employees losing entitlement to unemployment  
27 insurance if they work certain months of the year?

28 A. Yes.

29 Q. Will you explain that, please?

30 A. Yes; again you are getting into







1 a field that is administered by the Unemployment  
2 Insurance, but the basic principle is that because  
3 they work nine months in the year it is a standard  
4 rule of the Unemployment Insurance that such persons  
5 are not eligible for... Well, I shouldn't be  
6 specific, because again you are getting into an area  
7 that is controlled by the regulations, but they have  
8 a rule which provides that if you are on a payroll  
9 for a certain period of time in the year you are not  
10 permitted to receive unemployment insurance benefit.  
11 It is not something in the control of the Department of  
12 Transport.

13 Q. Has there ever been any thought  
14 given to retaining these men on the payroll for twelve  
15 months?

16 A. There has been discussion on it nad  
17 we have discussed the possibility of an extra period  
18 on the payroll for clean-up purposes or statistics,  
19 and other things.

20 -

21 -

22 -





1 We haven't come to any definite  
2 conclusions because you have to establish that there  
3 is sufficient work involved to retain them on the  
4 payroll for the 12 months. This we have not so far  
5 been able to satisfy ourselves is the case.

6 Q. How long have you been working  
7 or toying with that idea?

8 A. Well, really -- I think it has  
9 come up before. I don't think it is a new question, but  
10 it was discussed in greater detail during this particular  
11 exercise on the change of classification.

12 THE CHAIRMAN: Any questions on this  
13 point, Mr. Brisset?

14 MR. BRISSET: What would be the  
15 classification of the new Chief Dispatcher?

16 THE WITNESS: What is the level of that  
17 one?

18 MR. MACGILLIVRAY: Clerk 4.

19 THE WITNESS: Clerk 4.

20 THE CHAIRMAN: Mr. Lalonde, any questions?

21 MR. LALONDE: No.

22 THE CHAIRMAN: Mr. Langlois?

23 MR. LANGLOIS: No.

24 THE CHAIRMAN: I think this is the last  
25 question you have of Mr. Baxter?

26 MR. JACQUES: No, I have two more  
27 questions, one relating to District 3 and one left over  
28 from the previous hearing.

29 THE CHAIRMAN: So we will adjourn now  
30 for a few minutes.





1 ---SHORT RECESS.

2 THE WITNESS: My Lord, I would like to  
3 make a correction. I have checked the increase at  
4 the office in this class from TO 1 to TO 2 for the  
5 transport operating clerks that you mentioned, and  
6 the increase is from \$3,300.00 minimum, technical  
7 officer 1, transport operator clerk 1, to transport  
8 operator clerk 2, \$3,900.00.

9 MR. JACQUES: Q. So next season he  
10 should be making \$3,900.00 a year?

11 A. That is right.

12 Q. Now, the next question you  
13 were directed to answer relates to District #3.

14 CROSS-EXAMINATION BY MR. LALONDE:

15 Q. Is \$3,900.00 going to be for  
16 a full year?

17 A. No, that is the minimum. They  
18 proceed by statutory increase to a maximum of \$4,350.00.

19 Q. In Port Weller where they are  
20 only employed so many months --

21 A. They get less than \$3,900.00.

22 Q. If they are employed for only  
23 eight months or eight months and a half they will get  
24 eight or eight and a half of that amount?

25 A. That is right.

26 MR. JACQUES: Eight twelfths.

27 THE WITNESS: Yes.

28 DIRECT EXAMINATION BY MR. JACQUES:

29 Q. What procedures were followed  
30 in hiring Canadian pilots in District 3? How and when







1 were they selected and what information was given them  
2 with regard to their working conditions?

3 A. The pilots in District #3 were  
4 recruited on what we call the merit system. An  
5 advertisement was placed in 10 newspapers during the  
6 month of September, 1961.

7 Before the applications had  
8 been received, a qualification standard was established  
9 which took into consideration certificates held,  
10 experience in general area, personal suitability and  
11 age -- age as a consideration.

12 There were over 100 applications  
13 received. The Board was convened, consisting of  
14 Captains Seeley, Atkins, Bender and Mr. Miller acting  
15 as advisor and Secretary.

16 The applications were screened  
17 on the basis of standards established. There were  
18 30 candidates who met minimum standards. Those 30  
19 candidates were assessed numerically on the basis of  
20 certificates held and experience. It was only intended  
21 to recruit three pilots. Those candidates who secured  
22 300 or over only were to be interviewed.

23 There were 17 candidates called  
24 for interview. They were provided with an information  
25 pamphlet outlining rate of pay -- to those selected --  
26 rate of pay, method of payment, details of travelling  
27 expense, retirement fund, superannuation account, leave  
28 credits, circular, medical hospital insurance.

29 Q. Would you have that pamphlet  
30 with you?





1 A. Yes.  
2 Q. Would you have the list of news-  
3 papers?

4 A. Yes.

5 Q. That would be two documents  
6 entitled Terms and Conditions of Employment and  
7 Instructions and Information Regarding Completion of  
8 Travelling Expense Claims. It will be filed as  
9 Exhibit 1399.

10 ---EXHIBIT NO. 1399: Documents entitled Terms and  
11 Conditions of Employment and  
12 Instructions and Information  
Regarding Completion of  
Travelling Expense Claims.

13 THE WITNESS: I can provide the list  
14 of newspapers to you.

15 Q. The name of the newspapers is  
16 not exactly important. Rather, the area which they  
17 covered. Were the advertisements placed only in the  
18 Great Lakes Basin area or was it published also in the  
19 Maritimes and Quebec and perhaps on the West Coast?

20 A. No. I thought I had that list  
21 here. The area of advertising in the newspapers for  
22 District 3 was where? The area was certainly from the  
23 head of the Great Lakes and came over to include how  
24 far east? Port Weller. Over to Sarnia. I would  
25 prefer checking this and advise exactly what the area  
26 is.

27 THE CHAIRMAN: Right.

28 MR. JACQUES: Q. When was that done?

29 A. In 1961.

30 Q. The selection was made in 1961?





1 A. Yes.

2 Q. And they were hired for 1962?

3 A. Yes.

4 CROSS-EXAMINATION BY MR. LALONDE:

5 Q. You mentioned four names as  
6 being the Board of Examiners for this selection. Who  
7 is Mr. Miller?

8 A. He was personnel officer.

9 Q. Has he got any maritime experi-  
10 ence?

11 A. I don't think so.

12 Q. Now we know Captain Seeley. Do  
13 you know whether he has ever had any experience on  
14 lake ships?

15 A. I couldn't answer.

16 Q. Nor Captain Bender?

17 A. I know him.

18 Q. Do you know whether he has  
19 any experience on lake ships?

20 A. No.

21 Q. And Captain Atkins?

22 A. No.

23 MR. LALONDE: I submit to you that none  
24 of them have experience on the Lakes.

25 DIRECT EXAMINATION BY MR. JACQUES:

26 Q. Now, the next question is a  
27 left-over from the last week we sat here, and it is  
28 merely the filing of documents giving the salaries,  
29 fringe benefits for each class of employees, and also  
30 the turnover since 1958.







1 This document is to be attached  
2 to Exhibit 1146 which gives the salaries, fringe  
3 benefits, classification, from Superintendent of  
4 Pilots down, and for each class the turnover for each  
5 year since 1958.

6 MR. LALONDE: Where?

7 MR. JACQUES: All across Canada.

8 ---ADDITION TO EXHIBIT NO. 1146: Salaries, fringe  
9 benefits, classification, and turnover  
10 for each class for each  
year since 1958.

11 MR. LALONDE: Are the salaries indicated  
12 there annual salaries or are they the actual salary  
13 paid, what they effectively got?

14 THE WITNESS: Salary range.

15 MR. LALONDE: So that we don't know from  
16 that what effective salary is received. On the West  
17 Coast he would be working 12 months and he would get  
18 full salary?

19 THE CHAIRMAN: And four months at  
20 Churchill.

21 MR. LALONDE: And if they worked four  
22 months they would get four-twelfths of that?

23 THE WITNESS: That is right.

24 MR. JACQUES: The salaries which are  
25 listed there are those which will be in force next  
26 year, because I see that the technical officer 2 is  
27 listed as between \$3,900.00 to \$4,350.00.

28 THE WITNESS: That is the salary range.

29 MR. JACQUES: Transport operating clerk?

30 THE WITNESS: That is the salary range.





1 MR. LALONDE: That is for next year?

2 THE WITNESS: Transport operating clerk  
3 for next year was the figure I gave you. We hope he will  
4 get \$3,900.00. At the rate of \$3,900.00 for annual  
5 employment.

6 MR. LALONDE: Which would make about  
7 \$2,600.00 for eight months?

8 THE WITNESS: They are on approximately  
9 10 months.

10 MR. LALONDE: Even in the Great Lakes?

11 THE WITNESS: Yes.

12 MR. LALONDE: Do you feel the salary they  
13 get is satisfactory for the job they accomplish?

14 THE WITNESS: We don't set salaries. We  
15 ask the Civil Service Commission to establish the  
16 salary. We have no authority to set rates of pay.

17 MR. LALONDE: You are not obliged to  
18 have feelings about salaries either.

19 THE CHAIRMAN: Any further questions  
20 on this matter? Next?

21 MR. JACQUES: This is the last question  
22 I have for Mr. Baxter unless he has something to add  
23 to what he has said already.

24 CROSS-EXAMINATION BY MR. LALONDE:

25 Q. Could you tell me, Mr. Baxter,  
26 other instances in the Department of Transport where  
27 solicitors are prevented from acting on behalf of  
28 clients?

29 A. That has occurred?

30 Q. Yes.





1 A. No, there have been no instances  
2 where legal counsel has been prevented to act on  
3 behalf of clients.

4 Q. Or any other instances similar  
5 to the one my friend, Mr. Jacques, referred to?

6 A. We had a similar request, but  
7 legal counsel conformed to the policy of the Department  
8 to have a meeting.

9 Q. Would that be in connection with  
10 pilotage?

11 A. No.

12 Q. Would you have specific instances  
13 in mind?

14 A. Do I have?

15 Q. Yes.

16 A. I know the instance, yes.

17 Q. Recently?

18 A. Within the last 12 or 18 months.

19 Q. So you requested a written  
20 statement by the employee to the effect that a solicitor  
21 was wanted to represent -- he wanted a solicitor to  
22 represent him?

23 A. Yes.

24 Q. By the way, did you provide the  
25 pilots in District 2 or District 3 with the prevailing  
26 rate employee general regulations 1963 or --

27 A. I don't think so. It is not  
28 our practice to provide employees with them. We have  
29 16,000 employees. It is not our practice to provide  
30 them with copies of regulations, but the regulations are







Baxter, cr-ex  
(Lalonde)

1 on file in the office.

2 Q. Yes?

3 A. And they are available any  
4 time they wish to look at them.

5 Q. They can come to Ottawa any  
6 time they like?

7 A. No, the local office.

8 Q. Did you check wether there is  
9 any in the local office in Port Weller?

10 A. No, I haven't.

11 Q. Who sends it over there? Is it  
12 your responsibility to send it over there?

13 A. I would think it is standard  
14 procedure. Not only would we have prevailing rate  
15 regulations, but he would also have this book which  
16 is based on the regulations and their interpretation,  
17 which is the Bible to which he applies prevailing rate  
18 regulations.

19 THE CHAIRMAN: Could you give the name  
20 of the book?

21 THE WITNESS: This is the Personnel  
22 Manual.

23 MR. LALONDE: Q. Is this a document  
24 which the employees can consult?

25 A. Yes.

26 Q. Is it put in evidence at the  
27 place, at the local office?

28 A. No, I wouldn't think so.

29 Q. Are they advised that such a  
30 manual is at their disposal over there?





1 A. Not specifically, no. It is  
2 written in the Manual that it may be, but employees are  
3 not -- 15,000 employees were not told they could see  
4 the Manual.

5 Q. And not 25 and not 15?

6 A. Not specifically.

7 MR. LALONDE: They would have to know  
8 first that the thing exists and it is there and you  
9 can go and see it.

10 THE WITNESS: I have now the copy of  
11 the list of newspapers if you would like me to read  
12 them for the record or will I just file them?

13 MR. JACQUES: Will you read them?

14 THE WITNESS: Toronto, Hamilton, Sarnia,  
15 Fort William, Port Arthur, Sault Ste. Marie, St. Cath-  
16 arines, Windsor are the areas.

17 ---Witness retires.  
18

19 -----

20 CAPTAIN SLOCOMBE, Recalled

21 DIRECT EXAMINATION BY MR. JACQUES:

22 Q. You are under the same oath,  
23 Captain Slocombe. We have reached question number 2  
24 of the section on international negotiations, and the  
25 question refers to the Boundary Waters Treaty, 1909,  
26 which set up the International Joint Commission. We  
27 wonder if the Department when it discussed Great Lakes  
28 pilotage thought of referring this problem to the  
29 International Joint Commission under Article 9 of the  
30 Boundary Waters Treaty?





1 A. As far as I know the answer is  
2 no, Mr. Jacques.

3 Q. Question number 3 is rather  
4 lengthy and perhaps I could dispense with reading it.  
5 It refers to port pilotage.

6 A. Yes. The meat of it is that the  
7 United States provided a special -- included a special  
8 provision in the law prohibiting any other authority  
9 from setting up pilotage services. I notice Mr.  
10 Macgillivray has gone. I think it is safe for me to  
11 say, since in Canada under the Constitution anything  
12 to do with navigation and shipping is a federal  
13 responsibility, and it is not necessary to include  
14 any such provision in the Canadian law.

15 Q. But it did not prevent anyone  
16 from setting up a private system on a contractual  
17 basis?

18 A. Well, I do not see why it  
19 would.

20 Q. It did not prevent anybody  
21 from doing that?

22 A. No.

23 Mr. Macgillivray, may I bring you up  
24 to date?

25 Q. It has not prevented the Toronto  
26 Harbour Commission from setting up their own pilotage  
27 service?

28 A. No, because there is no  
29 regulation.

30 MR. BRISSET: Captain, it was pointed







1 out to you that the Toronto Harbour Commission had  
2 appointed their own pilots who gave pilotage service  
3 in the port. The Toronto Harbour Authority is an  
4 emanation from the federal government, is it not?

5 MR. MACGILLIVRAY: My Lord, the Toronto  
6 Harbour Authority is set up by statute by the federal  
7 Parliament. Whether they are an emanation of the  
8 Crown or the Government is a nice question. The fact  
9 is that in their by-laws they do and to regulate  
10 pilotage they simply provide a service.

11 THE CHAIRMAN: What is an emanation of  
12 the Crown? This has been the subject of many Court  
13 rulings.

14 MR. MACGILLIVRAY: I hope we will not  
15 have to go into it here.

16 MR. JACQUES: Q. Was this difference  
17 between the two bodies of law discussed with the  
18 Americans? When both laws were drafted I imagine that  
19 there were exchanges of texts of the proposed law.  
20 Were there any discussions when the Americans said:  
21 "Look, why don't you include this in your Act?" ?

22 A. I do not know whether this came  
23 up specifically or not. I think this is the answer we  
24 would have given them if they had.

25 Q. Since the pilotage has been  
26 set up on the Great Lakes I dare say that you have  
27 heard from the Great Lakes Pilotage Administration  
28 with respect to port pilotage on the Great Lakes,  
29 particularly Toronto and Hamilton?

30 A. Yes.





1 Q. Would you briefly tell us what  
2 was the history of that aspect of pilotage?

3 A. I think this comes in another  
4 part, does it not, Mr. Jacques?

5 Q. No, this is the next question.

6 All right. Since it is prepared  
7 for another question we might move to question number 4.

8 A. The last part of that question,  
9 Mr. Jacques, is that we are aware of the information  
10 that has been given to the Commission. We were aware  
11 of this, as far as that particular question goes.

12 Q. Question number 4.

13 A. I have here to file copies of  
14 the exchanges of notes and the Orders-In-Council as  
15 has been asked for in this question.

16 MR. JACQUES: Thank you. We might file  
17 these documents in a bundle as Exhibit 1400 --  
18 exchange of notes between Canada and the United States,  
19 treaty series 1961 No. 3, together with various Orders-  
20 In-Council; treaty series 1962 No. 2; 1963 No. 14;  
21 1963 No. 18.

22 ---EXHIBIT NO. 1400: Exchange of notes between Canada  
23 and the United States together  
with various Orders-In-Council.

24 MR. JACQUES: Q. Question number 5 --  
25 under what law or Order-In-Council has the organization  
26 of pilotage in the Great Lakes Basin been assigned  
27 to the Minister?

28 A. Part VI(a) of the Canada Shipping  
29 Act is the legislation and the Minister of Transport  
30 is responsible for the administration of this part of the





1 Canada Shipping Act. There is no other provision that  
2 I know of.

3 Q. There is nothing else?

4 THE CHAIRMAN: So it is not like Part VI;  
5 there is no authority -- there is no Pilotage Authority  
6 as such?

7 THE WITNESS: That is correct.

8 THE CHAIRMAN: It is only an employer-  
9 employee relationship?

10 THE WITNESS: This is correct, My Lord.

11 MR. LALONDE: How can it apply to  
12 District 1, My Lord?

13 MR. JACQUES: That is coming up in  
14 another question.

15 Q. Question number 6 with respect  
16 to Great Lakes pilotage regulations -- which is the  
17 provision of the law that enables the Governor-In-Council  
18 to make regulations contained in Section 5(3) with  
19 respect to limitations on registration certificates;  
20 Section 7(2) limitations on B certificates; Section  
21 8, disciplinary measures?

22 A. Our advice was that those  
23 regulations were valid. If they are not, we need to  
24 know.

25 MR. JACQUES: Well, perhaps counsel  
26 for the Department might point out the Section under  
27 which these regulations were drafted?

28 MR. MACGILLIVRAY: Well, My Lord, there  
29 is only one Section authorizing the regulations and  
30 that is Section 375(c) Sub-Section (1) and the







1 regulations were made under the authority of that  
2 Section. I would be glad to answer any arguments to  
3 the effect that they are ultra vires.

4 MR. JACQUES: If I might read Section  
5 5(3) --

6 "The registration of a pilot may  
7 be for a limited time and may  
8 be for all of the waters of the  
9 Great Lakes Basin or any portion  
10 thereof."

11 Under what Sub-Section of 375(c) has  
12 this regulation been enacted?

13 MR. MACGILLIVRAY: The Act authorizes  
14 the Governor-In-Council to make regulations prescribing  
15 the qualifications for the registration of Canadian  
16 registered pilots. Surely this gives him enough leeway  
17 to prescribe that the pilots may be registered in a  
18 limited way.

19 I may say that when the draftsmen  
20 went to work on Section 375(c) before it was introduced  
21 into Parliament, they had in mind the type of regulation  
22 they were making anyway and they were proposing a Section  
23 they thought would cover the regulations they would make.

24 MR. JACQUES: This is an amendment to the  
25 original Order-In-Council. I should read Section 7(2):

26 "A certificate of qualification  
27 referred to in Sub-Section (1)  
28 shall be valid for use only in the  
29 waters and for the period specified  
30 therein."





1 MR. MACGILLIVRAY: My Lord, if you can  
2 prescribe the qualifications for a pilot and prescribe

3 ---

4 MR. JACQUES: It is qualifications for  
5 ships' officers; I am sorry.

6 MR. MACGILLIVRAY: Oh, well, prescribing  
7 qualifications for officers other than pilots in waters  
8 other than designated waters -- surely (I don't know,  
9 My Lord) it seems to me that it is reasonable to think  
10 that a person may be qualified to operate in the waters  
11 of Lake Ontario because he has always sailed in there  
12 over a period of many years and it is reasonable to  
13 restrict his certificate to those waters rather than  
14 to extend it as far as the Lakehead. I fail to see  
15 that there is anything in Section 375(c) that would  
16 preclude the Governor-In-Council from making that kind  
17 of a restriction on the certificate.

18 MR. JACQUES: Now with respect to  
19 Section 8 of the by-laws concerning disciplinary  
20 measures, I might read it:

21 "If the Minister believes on such  
22 proof as he deems reasonable that  
23 a pilot or a person holding a  
24 certificate of qualification (a)  
25 is incompetent, (b) is mentally  
26 or physically unfit or (c) has  
27 violated the provisions of the  
28 Act or of any provisions made  
29 thereunder, he may in the case of  
30 a pilot order the deletion of the





1 pilot's name from the register  
2 and in the case of a person  
3 holding a certificate of  
4 qualification order the cancel-  
5 lation of that certificate."

6 MR. MACGILLIVRAY: I would suggest on  
7 that, My Lord, that the heading is improper. This  
8 should not be regarded as disciplinary measures. It  
9 is obvious that the Minister has to be able to remove  
10 these people from the register. Having put them on the  
11 register he can remove them from the register with  
12 good cause -- and he certainly must if the person is  
13 incompetent or unfit.

14 The power to provide for the  
15 registration of pilots, the power to enter a name on  
16 a register obviously carries with it the power to  
17 delete the name from the register with due cause.

18 MR. JACQUES: Then am I right in  
19 presuming we can presume that the Sections of the  
20 Merchant Shipping Act relating to the withdrawal or  
21 cancellation of the certificates of masters, mates,  
22 engineers and pilots are superfluous?

23 MR. MACGILLIVRAY: Oh, I think you can  
24 draw whatever conclusions you wish, Mr. Jacques.

25 MR. JACQUES: Thank you.

26 Q. Captain Slocombe, why is there  
27 no age qualification for certificates issued under  
28 Section 7(3) -- that is, the B certificate?

29 A. Well, for the rather obvious  
30 reason that if a man is fit to act as master or mate of







1 a ship, which he is in this case, then he is obviously  
2 fit to have a B certificate.

3 Q. Yes. I might be wrong, but the  
4 Canadian certificates once issued are valid for the  
5 lifetime of the person?

6 A. Which certificates?

7 Q. The certificate of Master.

8 A. This is correct, and there is  
9 no regulation or law which says that a man must stop.  
10 He can be 80 or 90 years old, if his employers will  
11 employ him.

12 Q. So that is the reason why there  
13 was no age limit set on this B certificate?

14 A. Yes; it is not considered  
15 necessary.

16 Q. You rely upon the employer. If  
17 the employer employs a particular man you are satisfied  
18 with respect to age and whatnot, that he is competent?

19 A. Yes.

20 Q. The next question is, has the  
21 Minister adopted any rules or regulations under Section  
22 5(1) of the regulations to govern the period of time  
23 which an applicant must serve as Master?

24 A. No, there is no rule or regulation.  
25 This is Section 5(1) of the regulations, Mr. Jacques.

26 Q. Yes, 5(1)(c) -- "No person shall  
27 be registered as pilot for the  
28 designated waters unless (c) he  
29 has served as Master of a vessel  
30 of more than 350 tons gross





1 tonnage on waters of the Great  
2 Lakes Basin for such period as  
3 the Minister may require."

4 A. Well, when these regulations  
5 were made it was intended to blanket in everybody,  
6 almost everybody who had been serving in this capacity.  
7 For instance in the Kingston District there may have  
8 been people who were getting on -- 65 years old -- and  
9 also among the sailing Masters there might have been,  
10 and putting in an age limit then would have just  
11 complicated matters.

12 Q. It is not an age limit; it  
13 is the period of time which he is to serve as Master.

14 A. I am sorry -- no.

15 Q. You require that he has served  
16 as Master -- he could have served as Master one day?

17 A. No. This was a matter of -- it  
18 was taken care of in the competition. We were picking  
19 out the best men available. There were many men who  
20 had had a great deal of experience and it was not  
21 necessary to set any minimum there.

22 Q. So this is one of the requirements  
23 which is left to the discretion of the Minister?

24 A. Correct.

25 Q. Tomorrow he could say: "I  
26 require ten years" and the day after tomorrow he could  
27 say, "I require five years" -- depending upon circum-  
28 stances?

29 A. Yes, this is correct.

30 Q. Have there been any rules adopted





1 with respect to the examination which the applicant  
2 must undergo? Again this is under Section 5(1) of  
3 the Great Lakes pilotage regulations, and one of their  
4 requirements to be registered is that the applicant  
5 must have successfully passed such examination as the  
6 Minister may prescribe.

7 A. It has not been laid down by  
8 regulation. This again is a matter of competition.  
9 In the initial stages we have relied upon the experi-  
10 ence and the testimonials of the candidates.

11 Q. But again there is nothing said  
12 about that and this is another requirement which is left  
13 at the discretion of the Minister?

14 A. This is correct.

15 MR. JACQUES: I submit to my friend,  
16 Maitre Macgillivray, that the Minister has leeway to  
17 do what he likes only under two Section of that Act,  
18 that he cannot do anything else, but that his discretion  
19 can be exercised in only two cases and these are not  
20 the two cases.

21 Q. Question No. 7 -- In regard to  
22 the two-trip requirement to qualify for the B certificate,  
23 explain how the Department was more or less compelled  
24 to agree to this compromise.

25 This comes from evidence where  
26 people said you were more or less forced into this.

27 A. I think that would be a wrong  
28 thing to say. This was a compromise and this has been  
29 fully explained in the letter which is filed as  
30 Exhibit 1266.







1 Q. 1266?

2 A. 1266, from the Minister of  
3 Transport to the Shipping Federation dated May 31st,  
4 1960. I have nothing to add to that letter.

5 MR. JACQUES: Thank you.

6 CROSS-EXAMINATION BY MR. BRISSET:

7 Q. Captain, do you see any logic  
8 in this requirement -- and I am asking you for an  
9 opinion as a man who has sailed?

10 A. The answer is no, Mr. Brisset.  
11 Our stand from the beginning was that this was not  
12 necessary from the safety point of view. However, this  
13 was the decision that was arrived at. We do not argue  
14 with it any more.

15 Q. If I may pursue this line of  
16 questioning, would you agree with me that in cases  
17 where the Master, as is usual, will get this certificate,  
18 the Master will normally stay on the bridge while  
19 going through pilotage waters -- for instance through  
20 the Welland Canal or the St. Clair and Detroit Rivers --  
21 and will usually rest while the ship goes through open  
22 waters? Is that not the general practice?

23 A. This is correct.

24 MR. LALONDE: How do you know?

25 THE WITNESS: How do I know?

26 MR. LALONDE: Yes, that this takes place  
27 on ships taking pilots on board.

28 MR. BRISSET: I think my learned friend  
29 should know that when there is a pilot in charge of  
30 navigation the Master will usually remain on the bridge.





1 MR. LALONDE: I have not been on the  
2 bridge of a ship certainly as much as my learned friend,  
3 but my friends the pilots tell me this is not so.

4 MR. BRISSET: I am speaking of the  
5 canal.

6 However, Captain, would you agree with  
7 me that normally the master of a ship, and I am  
8 speaking of an ocean ship -- and this would apply also  
9 in the lakes -- will usually take his rest when the  
10 vessel is transiting the open waters?

11 A. This is a reasonable assumption.

12 MR. BRISSET: And, still, even  
13 although he might be resting, during that transit the  
14 mere fact that he has gone through the water will  
15 qualify him? I suggest that this supports the  
16 opinion you have given us that there is no logic in  
17 the requirements?

18 THE WITNESS: I had expressed my  
19 opinion, Mr. Brisset.

20 MR. BRISSET: In fact, to meet the  
21 requirement, the officer who gets this B certificate  
22 doesn't have to be on the bridge at all during a  
23 transit of open water and might, in theory at least,  
24 be sleeping in his bunk all through the period and  
25 still that will qualify him?

26 THE WITNESS: This is correct.

27 MR. JACQUES: Q. As there subsequently  
28 appeared to be some misunderstanding was the matter  
29 reopened and were there further negotiations?

30 A. Not that I recall. I don't know





1 what this misunderstanding you are referring to was.

2 Q. I might read part of the evidence  
3 from Volume 135, at page 17389, and this is a statement  
4 made by Mr. Brisset:

5 "I would like now to file as Exhibit  
6 1267 a letter in reply by Mr. Mearns to the  
7 Honourable George Hees, commenting in his  
8 letter and briefly stating that there again  
9 it seemed evident that the problem of  
10 semantics had arisen, and that the word  
11 'pilotage' and 'pilots' did not mean the  
12 same thing in the United States as in Canada,  
13 and that possibly with all due respect the  
14 Minister had been misled, and therefore  
15 it would not be a breach of faith if he were  
16 to take up this matter again with the United  
17 States Government in order to eliminate this  
18 two-trip requirement..."

19 A. Well, this was not a misunderstanding  
20 so far as we were concerned, but this was a suggestion  
21 that the Federation made to take this up again with  
22 the United States Government, was it not? Is that  
23 what you said?

24 MR. BRISSET: The Federation was  
25 suggesting to the Department that the Canadian  
26 Government would take up again this problem with the  
27 United States Government.

28 THE WITNESS: And is it your impression  
29 that we did so, Mr. Brisset?

30 MR. BRISSET: I do not believe so.







1 THE WITNESS: I don't think we did.

2 MR. JACQUES: Q. In this connection,  
3 was the amendment made to the Great Lakes Pilotage  
4 Regulations in 1961 the result of further negotiations?  
5 You might recall, in fact, that you had a lot of  
6 experience with this amendment, and this requirement  
7 was discussed when the American pilots were here, and  
8 you quoted the regulations omitting the regulation of  
9 1961?

10 A. Oh, yes; when Lake Superior joined  
11 the rest of the organization, as you might say, there  
12 was difficulty, of course, because the deep sea men  
13 in the ocean ships hadn't had the experience in Lake  
14 Superior and it was difficult for them to get this;  
15 so that it seemed entirely reasonable to us, considering  
16 that they had already been through several lakes to  
17 get to Lake Superior, that one trip into Lake Superior  
18 would be sufficient; and we put that in. But there  
19 were repercussions from the States on this and we  
20 decided to take it out.

21 Q. So it is back to the two-trip  
22 requirement?

23 A. It is back to the two-trip re-  
24 quirement.

25 Q. Now, Question No. 8?

26 A. Yes; the further amendment:  
27 Whatever amendments were made were always made following  
28 discussions with our opposite numbers in the States.

29 Q. And in this particular case who  
30 took the initiative to open up the discussions?





1 A. I think, perhaps, that rate  
2 increases are involved in both these amendments and it  
3 would have been the United States side that initiated  
4 these increases.

5 Q. And when you are discussing rates  
6 like that I would like to know how it is done?  
7 I note, for instance, that in District No. 2, from  
8 Snell Lock to Cape Vincent, \$200. How is the figure  
9 arrived at? Are you requested by the Americans  
10 to agree to \$300 and then you negotiate and you come  
11 to the compromise of \$200?

12 A. This would imply that we were  
13 trying always to keep the rates down. I wouldn't  
14 say that this is necessarily so. But the thing is that  
15 the Great Lakes Pilotage Administration on the United  
16 States side, following representations from their  
17 pilots, claimed that this increase was necessary,  
18 and they had to convince us that this was necessary  
19 before, of course, we could request that a similar  
20 amendment be made in our regulations.

21 Q. And what factors do you take into  
22 account?

23 A. The expenses which were incurred  
24 by the pilots, and what would be a good salary, or  
25 good remuneration -- residual remuneration -- in that  
26 case for the pilot. In this, of course, we had to  
27 have the advice of the American administrator because  
28 we were dealing with American wages, you might say --  
29 American remuneration -- and the cost of living on  
30 that side had to be taken into account, and they were





1 the ones who would have to express opinions on that.

2 Q. Do you seek the opinion of an  
3 economist in this matter of increases in rates?

4 A. We have done so, yes, on occasions.

5 Q. But it is not a standard procedure?

6 A. Not standard, no. It has moved  
7 a little towards that of recent years since we have had  
8 an economics branch in the Department.

9 Q. Do you try to ascertain the effect  
10 of the increases on shipping, with your economist, of  
11 course?

12 A. Oh, yes; of late years we have.

13 Q. That is one of the factors which  
14 you take into consideration now?

15 A. Yes.

16 Q. Question No. 9: It is rather  
17 lengthy and I shall leave you to start answering it.

18 A. The first part of it mentions  
19 that holders of B certificates were obliged to renew  
20 them in 1963 although they had traded in the lakes  
21 continually during the previous two years. The  
22 answer to that is, of course, that it was necessary  
23 for the issuer of these certificates to see the  
24 candidates and ask them what they had been doing,  
25 otherwise he wouldn't know; and to ensure also that  
26 they will had a working knowledge of the rules of  
27 the road.

28 Then, section (a) of that question --  
29 give details. I have here a paper setting this out...

30 MR. JACQUES: I would like to file this







statement as Exhibit 1401. It is entitled "Statement of Examinations held for Certificates of Qualifications for the Undesignated waters of the Great Lakes, from January 1st 1961 to September 30, 1964."

--- EXHIBIT No. 1401: Document entitled "Statement of Examinations held for Certificates of Qualifications for the Undesignated Waters of the Great Lakes, from January 1st 1961 to September 30, 1964."

MR. JACQUES: Q. Then, sub-question (b).

A. No; the United States Coastguard, or any other U.S. authority, have never questioned our method of dealing with these B certificates.

Q. And Question (c), please.

A. The B certificates are issued after examination by certain designated examiners.

Q. Are they lake men -- these examiners?

A. Not necessarily; but they are examiners of masters and mates, who have to examine home trade men who have also to be examined on the Great Lakes rules.

I have here somewhere a copy of the appointments of these examiners. They were named by the Minister. I seem to have got it mixed up. May I file this later?

Q. Yes. We might attach it to Exhibit 1401.

Q. It will be in two sheets, one naming





1 the specific persons and the other including all  
2 examiners of masters and mates.

3 To be added to Exhibit 1401: List of Examiners,  
4 including all Examiners  
5 of masters and mates.

6 Q. And would these examinations be  
7 held at any time and anywhere? Say if a ship were  
8 in Halifax and planned a trip up the lakes, could the  
9 master be examined in Halifax for a B certificate?

10 A. Since this second authority,  
11 which you will see, there has been facility to examine  
12 in Halifax. I think you will notice in that sheet  
13 there have been only one or two, I think, in Halifax.

14 MR. LALONDE: One in Halifax.

15 MR. JACQUES: Two in Ottawa.

16 THE WITNESS: You were asking about the  
17 other places?

18 MR. JACQUES: No, no; we know where  
19 and we know when. Thank you.

20 Question No. 10: When did the  
21 Department last discuss with the U.S. authorities  
22 the proposed joint inspection and licensing of foreign  
23 ocean-going ships for navigation on the Great Lakes?

24 A. So far as I know we haven't  
25 formally discussed it with the Americans at all --  
26 the joint inspection and licensing.

27 As must be obvious to everybody, the  
28 United States Coastguard don't like the B certificate  
29 concept at all, and they said when they agreed to it  
30 that they didn't want to have anything to do with it;





1 but they didn't look behind our B certificate.

2 Q. They would take it at its face  
3 value?

4 A. Yes; of course, partly this, I  
5 assume, is a matter of geography because of the ships  
6 which come through Montreal in order to get to the  
7 Great Lakes. But they didn't want to have anything  
8 to do with it in any case.

9 BY MR. BRISSET: Q. Captain, you, of course,  
10 realize that the requirements for the B certificates  
11 are not contained in the law itself but in regulations  
12 issued by Order-in-Council?

13 A. Yes, I think this is correct.

14 MR. LALONDE: 73 of the regulations.

15 THE WITNESS: Yes.

16 MR. BRISSET: Q. Would you see any  
17 impediment at the present stage to negotiations being  
18 entered into with the United States Government to have  
19 the United States Government agree, for instance, to  
20 the deletion of the two-trip requirement, since this  
21 would not require a change in the law in Canada?

22 A. I don't think that the Shipping  
23 Federation asked us before to approach the United  
24 States Government.

25 Q. But would you at least consider  
26 it easier to do it in view of the fact that the law  
27 itself doesn't provide for this requirement? In  
28 other words, isn't it a matter that can be opened up  
29 by way of further negotiation?

30 A. It could be, yes.







1 A. It could be, yes. There is no  
2 impediment as far as I know. It would be a matter of  
3 an amendment to the Memorandum of Arrangements, and  
4 appropriate amendment in the regulations on either side.

5 Q. Would you not agree that it  
6 would not even be necessary to amend the Memorandum of  
7 Arrangements as there is no mention of this particular  
8 requirement in the Memorandum of Arrangements?

9 A. I am forgetting that, Mr. Brisset.  
10 I take your word for it. It certainly was mentioned  
11 in some of the Aides Memoires.

12 Q. Aide Memoire is not the law on  
13 the other side of the border.

14 MR. MACGILLIVRAY: Neither is the  
15 Memorandum of Arrangements.

16 THE WITNESS: That is what I was going  
17 to say. Neither is the Memorandum of Arrangements. It  
18 is merely an expression of opinion. What is your  
19 question? I am sorry.

20 Q. Would you not think that this  
21 is a matter that could be opened for discussion between  
22 governments without the necessity of changing the law  
23 on either side of the border?

24 A. As I say, I see no impediment.

25 Q. There was reference to the  
26 Aides Memoires a moment ago. I am quoting from Exhibit  
27 1103, hearings before the U.S. Senate Committee on  
28  
29  
30





1 Bill S3019 in which the exchange of Aides Memories  
2 between the two governments is reproduced at pages  
3 9 and 10. It is stated as follows, first of all in the  
4 American Aide Memoire, "The Canadian officials further  
5 indicated that the Canadian government would include  
6 in proposed legislation"-- and I draw your attention  
7 to those words.

8 A. They meant as regulations.

9 Q. --"such provisions as might be  
10 considered necessary to authorize the Department of  
11 Transport to issue certificates qualifying for  
12 navigation of the open waters of the Great Lakes  
13 those officers of the regular complements of ocean  
14 vessels who meet the following requirements," and  
15 then the requirements are listed, including the two-  
16 trip requirement.

17 Then in the Aide Memoire of the  
18 Canadian government this is stated: "In the event  
19 that that Bill does become law in the United States,  
20 it is the intention of the Canadian government to submit  
21 to the Canadian Parliament legislative proposals which  
22 would effect just such a coordinated pilotage regime  
23 in the Great Lakes in the manner indicated in the U.S.  
24 Memoire."

25 I am therefore right in  
26 understanding that when these Aides Memoires were  
27 written it was intended that the requirements would  
28 be covered by regulations and not by legislation?

29 A. Oh, I think so, Mr. Brisset.

30 They are using the word "legislation" a little loosely,





1 perhaps.

2 Q. May I therefore assume that this  
3 was done intentionally so that they could be revised  
4 more or less informally?

5 A. This is usually the intention  
6 when matters are placed in regulations instead of  
7 legislation.

8 MR. LALONDE: You said that the U.S.  
9 Coast Guard did not like the B certificates. Were you  
10 informed that they wanted more stringent regulations  
11 or looser regulations in that respect?

12 THE WITNESS: Oh, the original position  
13 of the U.S. Coast Guard was that there would be  
14 registered pilots throughout the Great Lakes.

15 DIRECT EXAMINATION BY MR. JACQUES:

16 Q. Question No. 11, would you file  
17 copy of the 1952 agreement between Canada and the  
18 United States for the promotion of safety on the Great  
19 Lakes by means of radio?

20 A. I think this is what is being  
21 asked for.

22 Q. Yes?

23 A. And the question includes also --

24 Q. We want to know whether it was  
25 implemented, and if so, to what extent and how?

26 A. The Great Lakes Treaty provisions  
27 were brought into effect by amendments to the Act.  
28 Now, to what Act? To the Radio Act.

29 MR. MACGILLIVRAY: The Canada Shipping Act.

30 THE WITNESS: Radio regulations, parts 1,







1 2 and 3.

2 MR. MACGILLIVRAY: Ships station radio  
3 regulations, parts 1, 2 and 3.

4 MR. JACQUES: Thank you. The Treaty  
5 will be filed as Exhibit 1402. This Treaty is 1952,  
6 number 25.

7 ---EXHIBIT NO. 1402: Copy of 1952 agreement between  
8 Canada and the United States for  
9 promotion of safety on the Great  
Lakes by means of radio.

10 MR. JACQUES: Q. The next question  
11 number is number 12.

12 A. The question is what joint  
13 consideration is being given, if any, by the Department  
14 with the appropriate agency in the United States to  
15 bring certain of the Great Lakes rules of the road  
16 in line with international rules?

17 The Coast Guard have raised  
18 this question. They have sent out some proposed rules  
19 to all interested parties asking for comments.

20 Q. Have you received a copy of the  
21 proposed rules?

22 A. Yes, we have.

23 Q. And the request that you forward  
24 your comments?

25 A. Yes. These proposed rules  
26 have been sent out to pilots' organizations and to  
27 Masters, mates and pilots' organization and --

28 MR. JACQUES: Would the Commission like  
29 to have a copy of the proposed rules?

30 MR. BRISSET: They have been filed.





1 THE SECRETARY: Yes, they were filed.

2 THE CHAIRMAN: I suppose also to the  
3 Dominion Marine?

4 THE WITNESS: Yes.

5 MR. BRISSET: The Shipping Federation,  
6 My Lord.

7 MR. JACQUES: Q. How much work has been  
8 done so far towards adopting these proposed rules?

9 A. Oh, not very much so far. They  
10 are still receiving comments.

11 Q. Do you foresee that both  
12 governments will be in a position soon to decide whether  
13 they are going to be adopted or not?

14 A. I think it will take some time  
15 in view of the strong opposition of most of the lake  
16 people.

17 Q. Canadian lake people or American  
18 lake people?

19 A. Both.

20 Q. Both?

21 A. Yes.

22 Q. I shouldn't think that the  
23 Canadian lake people would object because most of them  
24 have to be familiar with both sets of rules.

25 A. This may be just an objection  
26 to any kind of change from what people are used to, but  
27 there are certain objections which may be valid. I think  
28 the lake people, lake sailors, lake mariners do see a  
29 value in this all-round white light --

30 COMMISSIONER SMITH: I should like to ask





1 you this question: It may have been answered before,  
2 but if it has I have forgotten. What is your personal  
3 opinion about changing the rules of the Great Lakes  
4 to the international rules of the road?

5 THE WITNESS: Well, I was just saying,  
6 Mr. Smith, apropos of this point, there are some features  
7 of the Great Lakes rules which one might say is a strong  
8 reason to retain. Now, this is just a matter of  
9 opinion, of course, but the mainmast headlight on the  
10 Great Lakes is an all-round white light.

11 The lake mariners hold that  
12 this is very useful when navigating rivers, bends  
13 in the rivers and so on because they are able to see  
14 this mast headlight some time over an intervening  
15 headland -- intervening land, round a bend. They see  
16 the mainmast headlight much sooner than they would  
17 see the stern light which is quite low down on the  
18 structure of the ship. The stern light, which is  
19 required under international rules. You understand  
20 the difference, Mr. Smith?

21 COMMISSIONER SMITH: Yes.

22 THE WITNESS: The mainmast headlight on  
23 the international rules is a twenty point of the compass  
24 light and is not visible for more than two points  
25 abaft the beam.

26 This is one point which I think  
27 the lakemen have a good point, and there is also the  
28 question about the whistle signals in fog.

29 Now, I am a little biased in  
30 this, having sailed for six or seven seasons on the Lakes,







1 and when you are feeling your way past another ship by  
2 means of a whistle, if you give a blast of four to  
3 six seconds duration it is rather a long time. You  
4 have gone a long way in approaching each other in this  
5 time, but three short blasts -- it merely says three  
6 distinct blasts, and these blasts can be shortened down  
7 at will, and this is how it used to be on the Lakes  
8 anyhow.

9 MR. BRISSET: Before radar?

10 THE WITNESS: Before radar, yes. But  
11 I think that even since radar when you get as close  
12 as that, if you are feeling your way past another  
13 ship, there is a point in having a quick signal  
14 which doesn't take four to six seconds so that you can  
15 answer each other and keep yourselves more abreast of  
16 the relative positions of the ships.

17 COMMISSIONER SMITH: Would you know what  
18 the preponderance of opinion among the experts like  
19 yourself would be on the change of these rules?

20 THE WITNESS: Well, I think it is just a  
21 matter of where you sit, Mr. Smith. The international  
22 men, men from the ocean, naturally would like to be  
23 using the same rules that they have been used to, and  
24 the men who have lived their lives on the Lakes, they  
25 like the ones they have been used to. Our lakemen,  
26 and I am speaking of the Canadian lakemen now, who have  
27 held certificates on the Lakes, we have always, at  
28 least since 1937 when I became Examiner, and before that,  
29 they have all had to know both sets of rules of the  
30 road because the inland water certificates were valid





Slocombe, dir  
(Jacques)

1 down the St. Lawrence where the international rules  
2 were in force, so it was necessary for them to know both  
3 sets of rules of the road.

4 This is purely a matter of  
5 someone giving on this. I don't think you can expect  
6 unanimity of opinion by any means. It may be that  
7 following these discussions and work on it, that a  
8 set of rules will be accepted which will be a standard  
9 set of rules, with just two or three special rules  
10 for the Great Lakes attached, and this might be useful.

11 MR. BRISSET: Isn't that in fact the  
12 proposal of the Coast Guard at the moment? It would  
13 retain certain of the peculiar aspects of the Lakes  
14 rules of the road? For instance, perhaps with respect  
15 to the masthead light visible all around the horizon?

16 THE WITNESS: As I recall the latest  
17 proposal, Mr. Brisset, and I haven't had time to study  
18 it because I have been too tied up with the Commission,  
19 but as I recall it, it was optional that the ship could  
20 dispense with this mast headlight; it could use  
21 instead the stern light prescribed by the international  
22 rules.

23 CROSS-EXAMINATION BY MR. LALONDE:

24 Q. Captain Slocombe, to which  
25 organizations of Masters and mates did you send these  
26 draft proposals?

27 A. As a matter of fact we didn't send  
28 them. They were sent out by the U.S. Coast Guard.

29 Q. I see.

30 A. And I think they were sent to all





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Slocombe, cr-ex  
(Lalonde)

1 the Canadian pilots.

2 Q. Individually? Each individual  
3 pilot?

4 A. You haven't had them in District  
5 2?

6 Q. I submit to you nor in District  
7 3 nor in District 1.

8 A. District 1 have had them.

9 Q. They finally got them? Then I  
10 am wrong.

11 A. They were sent by the U.S.  
12 Coast Guard.

13 Q. But the others are your  
14 employees. Maybe that should be done by you.

15 A. Well, there is lots of time, Mr.  
16 Lalonde.

17 Q. Do you think it would be a good  
18 idea to have their ideas on that?

19 A. Of course.

20 THE CHAIRMAN: Any further questions in  
21 this matter?

22 We are now moving to a new  
23 chapter, I think, so we will take this opportunity to  
24 adjourn until tomorrow morning at 9:30.

25

26

27

28 Hearing adjourned at 5:30 p.m.

29

30





# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT  
OTTAWA

VOLUME No.:  
155

DATE:  
Oct. 23, 1964

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
in the Exchequer Court Building,  
Ottawa, Ontario, on Friday, the  
23rd day of October, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Cor- poration of Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	for the Canadian Merchant Service Guild





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1 MR. BRISSET: My lord, before we  
2 start this morning with Captain Slocombe, I would like  
3 to deposit with this Commission a technical paper  
4 prepared by Computing Devices of Canada Limited  
5 entitled Technical Proposal for a Pilotage Despatching  
6 System for the Great Lakes. I will only read two  
7 short paragraphs out of this document. It might be  
8 filed as Exhibit 1403.

9  
10 ---EXHIBIT NO. 1403: "Technical Proposal for a  
11 Pilotage Despatching System  
for the Great Lakes".

12 MR. BRISSET: These proposals for a  
13 pilotage despatching system for the Great Lakes is sub-  
14 mitted to the Shipping Federation by Computing Devices  
15 of Canada. It is based on the premise that the  
16 system to be described will be operated through an  
17 agency of a commercial undertaking and will provide  
18 information which will enable pilots to be despatched  
19 efficiently through their own authorities.

20 It is proposed to show that with the  
21 existing means of radio communications available on  
22 the Great Lakes, both in ships and on land, and through  
23 the operation of a centralized information office, it  
24 will be possible to know at all times the location on  
25 the lakes and ports of the Great Lakes, of all the  
26 ships which carry pilots and the location of each  
27 individual pilot. This will enable the pool of  
28 pilots to be used to their optimum advantage and with  
29 the maximum of efficiency, at the same time ensuring  
30 that a pilot is available whenever a ship requires

him







1 The document speaks for itself.

2 Mr. Simmons is here if there are any questions to be  
3 raised.

4 THE CHAIRMAN: Thank you very much.  
5 I think counsel had a copy before. Mr. Simmons is  
6 going to be here for another few minutes?

7 MR. BRISSET: Yes, sir.

8 THE CHAIRMAN: So we will proceed  
9 with the other part and if anybody has any questions  
10 they can be asked a little later.

11  
12 CAPTAIN F. S. SLOCOMBE, sworn

13 CROSS-EXAMINATION BY MR. LALONDE:

14 Q. Captain Slocombe, you are aware that  
15 during the course of the negotiations concerning the  
16 Great Lakes Pilotage Act in the United States there  
17 was a consultive committee composed of pilots' repre-  
18 sentatives and shipowners' representatives and I be-  
19 lieve a third person. Were you aware of such a con-  
20 sultive committee? Captain Lowe was one member  
21 of that committee.

22 A. I have heard of it, but I have no  
23 personal knowledge of it.

24 Q. Is there any particular reason why  
25 no such consultive body was set up in Canada comprised  
26 of representatives of the pilots and shipowners, inter-  
27 ested parties?

28 A. The Shipping Federation were very much  
29 in the picture all the time.

30 Q. On a consultive basis with the





1 Department of Transport?

2 A. Not in a formal committee basis.

3 Q. Yes?

4 A. But certainly I think the evidence  
5 is clear that the Shipping Federation were aware of what  
6 was going on.

7 Q. Do you think it might have been a  
8 good idea that pilots would have been consulted also;  
9 had their views heard here in Canada on the subject?

10 A. Which pilots, Mr. Lalonde?

11 Q. Canadian pilots.

12 A. Of what area?

13 Q. Either Kingston area or Port Weller  
14 area, and there were no pilots in District 3, but  
15 certainly this was of some concern to the Kingston and  
16 Port Weller pilots, and I am sure all the Cornwall  
17 pilots.

18 A. It was not done.

19 Q. Excuse me?

20 A. It was not done anyhow.

21 MR. BRISSET: The Great Lakes Pilots  
22 Association were represented at the time by Captain  
23 Rolla R. Johnson, who was appearing every time possible  
24 before the committees to support the ill-thought  
25 legislation that was before the U. S. Congress at  
26 the time, speaking both for the American pilots and the  
27 Canadian pilots.

28 MR. LALONDE: Well, my lord, I think  
29 my friend is facetious here this morning. Captain  
30 Johnson certainly spoke for an American organization.





1 There is no evidence that this organization represented  
2 Canadian pilots as far as we know during all that  
3 period. Moreover, what I was referring to was  
4 a semi-official consultive committee set up by the  
5 American government. I am not wondering whether  
6 people appeared before American hearings or bodies  
7 like that, but whether there was, like in the United  
8 States, a formal committee to advise the department  
9 on the matters of interests, or on proposals.

10 Q. This is what you understood I had in  
11 mind, not whether somebody appeared before the American  
12 hearings?

13 A. Oh, yes.

14 Q. And there were no hearings here in  
15 respect of Bills before the House. There was no pro-  
16 cedure for hearings apart from this. The only possi-  
17 bility would have been some kind of consultation, offi-  
18 cial or otherwise, with either shipping representatives  
19 or pilots. You told me there were some consultations  
20 with shipping representatives and you asked me which  
21 pilots, and I told you so.

22 A. It was not considered necessary, and  
23 I may say that the situation on the other side was  
24 quite different.

25 Q. Yes?

26 A. Because the people concerned had not  
27 been involved in pilotage at all on the other side.

28 Q. Yes?

29 A. We do flatter ourselves we know some-  
30 thing about pilotage.







1 Q. But you did not feel that you could  
2 have gained anything by consulting the pilots actively  
3 employed in the operation at the time to have their  
4 views and their various proposals?

5 A. I don't think so. If it had been  
6 thought so, they would have been consulted.

7 Q. In effect they were not?

8 A. They were not officially, no.

9 Q. On the other hand the Shipping  
10 Federation were consulted?

11 A. The Shipping Federation were right  
12 in the picture from the start. They were running a  
13 pilotage service.

14 Q. But the people who ran were not  
15 consulted?

16 A. No.

17 MR. BRISSET: The Shipping Federation  
18 was not consulted either, but when it learned what was  
19 going on it really stepped into the picture.

20 MR. LALONDE:

21 Q. You were aware that the pilots made  
22 representations to have the opportunity of expressing  
23 their views on the subject?

24 A. I don't recall that, Mr. Lalonde.

25 Q. I am referring you to the agreement  
26 of October 13, 1960, signed by the Minister. I am  
27 sorry, it is not in the agreement itself; it is in the  
28 letters following this agreement.

29 A. Which agreement, Mr. Lalonde?

30 Q. Excuse me?





1 A. Which agreement?

2 Q. The agreement of October 13, 1960.

3 A. Between whom?

4 Q. Between Mr. Balcer and the pilots.

5 The Minister and the pilots.

6 A. Oh, this is the agreement which we did  
7 not see.

8 Q. Well, this agreement, if I may give  
9 evidence here, was sent to the department. Mr. Baldwin  
10 may have seen it, and I presume Mr. Baldwin is still  
11 in the department?

12 A. Yes.

13 Q. And the Minister is also in the depart-  
14 ment?

15 A. Oh, yes.

16 Q. And subsequent correspondence with  
17 the Minister, if you look at that correspondence, you  
18 will find reference to this request by the pilots to  
19 have the opportunity of being consulted or expressing  
20 their views about negotiations being carried on at the  
21 time between the U. S. and Canadian governments.

22 These letters are in evidence. I  
23 don't have the exhibit number. The Minister answered  
24 that the pilots could not obviously attend as observers  
25 the meetings between Canada and the United States, but  
26 that they would be kept posted on every development.

27 If you look in the file again you  
28 will see the first time that pilots heard about it was  
29 about six months after everything was settled when  
30 they received a letter from Mr. Cumyn saying that





1 an agreement was reached and everything was settled.  
2 If you will look in the file this is what you will find.

3 A. I believe you, Mr. Lalonde. I had  
4 forgotten.

5 MR. LALONDE: That is all.

6 THE CHAIRMAN: We will carry on with  
7 the next chapter.

8  
9 DIRECT EXAMINATION BY MR. JACQUES:

10 Q. Kingston District or Great Lakes  
11 District No. 1, the first question relates to the  
12 Port of Kingston. Why was it included in the desig-  
13 nated waters?

14 A. Because it was already included in  
15 the Kingston Pilotage District.

16 Q. Why was it included in the Kingston  
17 Pilotage District? In other words, we want to know  
18 why the Port of Kingston became a compulsory pilotage  
19 port?

20 A. With the Great Lakes Pilotage Act?

21 Q. With the Great Lakes Pilotage Act.

22 A. Because it was in the designated  
23 waters as designated, and the designated waters were  
24 intended to be narrow waters which were considered to  
25 be pilotage waters. Kingston Harbour had always  
26 been included in the St. Lawrence River, the St. Lawrence-  
27 Kingston-Ottawa Pilotage District, and then of course  
28 in the Kingston District.

29 Q. And that is why it was included in  
30 the designated waters, because it had been previously







1 included in the district's waters?

2 A. Yes, and it seemed reasonable. It  
3 was the end of the narrow waters at the west end of  
4 the Kingston harbour.

5 Q. Were the Kingston harbour authorities  
6 consulted?

7 A. No.

8 Q. They were not?

9 A. No.

10 Q. Do you know why they were not con-  
11 sulted?

12 A. They were not consulted I think  
13 before the district was made in the first place either.  
14 They had their opportunity of expressing their opinion  
15 after the matter was first made known to the public  
16 through Parliament.

17 Q. Oh, yes, but that is a right which  
18 everybody enjoys, but they were not approached or  
19 consulted; they were not told beforehand that their  
20 port would be included in the designated waters?

21 A. No, as far as I know, not.

22 Q. I guess the same applies for the  
23 other designated waters? Nobody was consulted?

24 A. No.

25 Q. Designated waters were made from the  
26 practical point of view?

27 A. Yes.

28 Q. But nobody was consulted?

29 A. No, no.

30 THE CHAIRMAN: Everybody was publicly





1 notified, I suppose, in the paper. Public hearings.

2 THE WITNESS: The usual publicity  
3 was given at the time of the first reading in the  
4 House, my lord.

5 MR. LALONDE: But the first reading  
6 in the House did not provide any information as to  
7 whether Kingston would be in or out or even what would  
8 be the issue?

9 MR. JACQUES: It is done by order-in-  
10 council.

11 THE CHAIRMAN: I see.

12 MR. LALONDE: In Canada there is not  
13 the system that they have in the States where they call  
14 a hearing in order to obtain people's views. An order-  
15 in-council can be passed overnight and nobody knows.

16 THE WITNESS: This is correct. And  
17 right or wrong, we have always been told we couldn't  
18 anticipate an order-in-council. We are not supposed  
19 to inform people before the order-in-council is passed.

20 THE CHAIRMAN: If I may sum up, there  
21 were two reasons. One, historically in view of the  
22 fact that it was in the old Kingston District. Secondly,  
23 a geographical one because <sup>it was</sup> at the end of the restricted  
24 waters. District waters.

25 THE WITNESS: Yes, restricted waters  
26 is a good word, my lord. Another thing, of course,  
27 the cutting out of Kingston harbour would have taken  
28 something away from the Kingston District which would  
29 again have opened up another can of worms.

30 MR. JACQUES:





1 Q. I don't follow you.

2 A. The Kingston pilots. This was part  
3 of the Kingston District, and cutting out the Kingston  
4 harbour from the Kingston District would have restricted  
5 the operations of the Kingston pilots.

6 Q. Well, they are not using Kingston any  
7 more; they are going to Cape Vincent.

8 A. This is not so. You are not correct  
9 here, Mr. Jacques They are using Kingston when a  
10 ship goes to Kingston.

11 Q. Yes?

12 A. And it is still within their district.

13 Q. Yes?

14 A. And in fact there are rates established  
15 and so on that include Kingston harbour.

16 Q. Agreed. But the problem in Kingston  
17 is that being so close to the end, the western end of  
18 the district, ships moving from the grain elevators  
19 were moving for a matter of feet in restricted waters  
20 or designated waters before proceeding into the open  
21 lake, with the consequence that to move those few  
22 feet they had to have a pilot?

23 A. That is so.

24 Q. They have to have a pilot?

25 A. They have to have a pilot.

26 Q. They have to have a pilot?

27 A. This is correct.

28 Q. And that problem was not studied at  
29 the time?

30 A. It was not thought of at the time.







1 Q. It was not thought of at the time?

2 MR. LALONDE: Isn't it a fact, Captain  
3 Slocombe, that Kingston harbour is nevertheless a  
4 harbour which presents some difficulties to navigate?

5 THE WITNESS: The usual difficulties.

6 MR. LALONDE: It is a harbour?

7 THE WITNESS: Yes.

8 MR. JACQUES: Even the high seas  
9 as time present difficulties.

10 THE CHAIRMAN: But not in docking!

11 MR. JACQUES: Now, Question No. 2 ---

12 THE WITNESS: I might add to that  
13 that there were representations from organizations of  
14 pilots that the designated waters, the limit of the  
15 designated waters, should have been away out in the  
16 lake around Duck Island. This would have been very  
17 much more difficult for everybody. As it was, we  
18 just included the Kingston district in the designated  
19 waters as being pilotage waters, considered pilotage  
20 waters.

21 MR. LALONDE: Which, American or  
22 Canadian pilots?

23 THE WITNESS: Both. I think  
24 Captain Andrews of the Sailing Masters was very much  
25 concerned.

26 MR. LALONDE: In 1957 or 1958?

27 THE WITNESS: Oh, I don't recall the  
28 date now.

29 MR. BRISSET: And Captain Johnson  
30 spoke on that, I am sure.





1 MR. JACQUES: And he did again  
2 before the Commission.

3 Q. Question No. 2 is rather lengthy and  
4 I do not think I should read it. That problem was  
5 touched upon yesterday.

6 A. Yes.

7 Well, the question is were the sixteen  
8 temporary licence holders informed that they might be-  
9 come government employees later on, and the answer is  
10 Yes. It was explained to the sixteen new pilots  
11 before their examination that they would be issued  
12 temporary licences and that it was possible that they  
13 would become government employees on a flat salary  
14 basis when the new Great Lakes pilotage arrangements  
15 were made.

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1 I have here a copy of a letter  
2 which was sent by Captain Jones to each of these men  
3 on August 6th, 1959, setting this out.

4 Q. Which we shall file as Exhibit 1404 --  
5 circular letter dated August 6th, 1959, addressed by  
6 the Department of Transport to the sixteen temporary  
7 pilots of District 1. Is that correct -- only to  
8 the sixteen pilots who had temporary licences?

9 A. Yes, who came on force in 1961. I  
10 am sorry, that is in 1960, I think, Mr. Jacques.

11 Q. Yes. Was there any other offer  
12 of government employment to these pilots after 1961?

13 A. Not after that meeting with the  
14 minister.

15  
16 ---EXHIBIT NO. 1404: Circular letter dated August  
17 6, 1959, from the Department  
18 of Transport to the sixteen  
19 temporary pilots of District 1.

20 THE WITNESS: I have here copies of  
21 correspondence from the department.

22 CROSS-EXAMINATION BY MR. LALONDE:

23 Q. I am quoting here an extract from  
24 Exhibit 849, which is the statement for the minister's  
25 use at the proposed meeting with Kingston pilots on  
26 February 28th. In the sixth paragraph it says:

27 "In the spring of 1960 sixteen new  
28 pilots were appointed in the St.

29 Lawrence-Kingston-Ottawa Pilotage  
30 District."

Is it not true that this should read 1959 and not 1960,







1 that these sixteen pilots were appointed?

2 A. What is the date of that letter, Mr.  
3 Jacques?

4 MR. JACQUES: The date of Exhibit  
5 1404 is August 6th, 1959.

6 THE WITNESS: 1959.

7 MR. JACQUES: And the examination was  
8 convened for 9.00 a.m. August 13th, 1959.

9 THE WITNESS: I am told that these  
10 sixteen new pilots were taken on in the spring of 1960.  
11 Mr. Bissonette shakes his head. Maybe they can correct  
12 this.

13 MR. LALONDE:

14 Q. I would like to ask you a few questions  
15 about that famous meeting. Do you remember that when  
16 the invitation for the meeting was sent out the pilots'  
17 committee answered on behalf of the pilots that they  
18 were not interested in civil service status and that  
19 they had had their meeting on the subject? Is that  
20 in your records?

21 A. It is after the meeting?

22 Q. No, before the meeting.

23 A. Before the meeting?

24 Q. Would you look at your records?

25 A. What is your question again, Mr.  
26 Lalonde?

27 Q. That the pilots' committee answered  
28 directly or through myself that they had consulted  
29 their members and the view of the Kingston pilots was  
30 that they were not interested in civil service status?





1 A. It would save time if you have the  
2 copy of it there, Mr. Lalonde.

3 Q. No, I do not have a copy of it here.  
4 I will help you find it, however.

5 A. When would this have been about?

6 Q. Probably a telegram before the meeting.

7 A. This was a telegram from the pilots'  
8 committee, was it?

9 Q. Yes. But nonetheless the stand the  
10 department took is that they wanted to meet and have  
11 an interview with all the pilots together; is that  
12 correct?

13 A. This is correct. A telegram was  
14 sent out to each pilot on February 21st saying:

15 "Form letters have been received  
16 from several pilots suggesting that  
17 pilotage meeting of February 28th  
18 should be attended only by pilots'  
19 committee. Can assure you Pilotage  
20 Authority intention to discuss all  
21 regular continuing operating matters  
22 with pilots' committee under normal  
23 circumstances. However, inclusion  
24 Cornwall-Kingston area in Great Lakes  
25 under new Part VI(A) Canada Shipping  
26 Act for purpose of establishing new  
27 Canada-United States pilotage system  
28 involves serious problems of organiza-  
29 tion and coordination which upon com-  
30 pletion of arrangements with the United





1 States will involve at least major  
2 modification under present bylaws and  
3 possibly abolition or reconstitution of  
4 district.

5 "This is one of reasons licences  
6 not yet renewed. Of total of 24 pilots  
7 16 received only temporary appointments  
8 subject to any modifications required  
9 as result of new Canada-United States  
10 arrangements.

11 "Matters to be discussed are of  
12 utmost importance to future employment  
13 of each individual pilot and in fairness  
14 to all it is considered that all should  
15 have opportunity to be present to hear  
16 and discuss proposals to be placed be-  
17 fore meeting. Government is most  
18 anxious to conclude arrangements that  
19 will provide greatest possible security  
20 of employment and income for present  
21 group of pilots and your attendance is  
22 urgently requested in your own personal  
23 interest."

24 Q. Signed . . . ?

25 A. Signed by J. R. Baldwin, Deputy  
26 Minister.

27 Q. And sent to all individual pilots?

28 A. Correct.

29 Q. The telegram seems to indicate that  
30 you had received letters from individual pilots telling







1 you to talk the matter over with the pilots' committee?

2 A. "From several pilots" it says.

3 Q. By that time the government had  
4 passed P.C. 1960-1573 entitled Kingston Pilotage  
5 District General Bylaw, dated November 17th, 1960,  
6 and I read you paragraph 6 of Article V which says:

7 "The Committee" --

8 that is, the pilots' committee --

9 "shall be recognized by the Authority  
10 and the pilots as sole agent through  
11 which representations may be made  
12 in all matters affecting the pilots  
13 collectively or individually."

14 Would you think that this matter was a matter that  
15 affected the pilots individually and collectively?

16 A. Yes.

17 Q. In spite of the bylaw you decided you  
18 wanted to have all the pilots present and in that  
19 telegram which was sent you refer to the possible  
20 abolition of the district -- the telegram you just  
21 read. What did you have in mind? What did the  
22 department have in mind at that time?

23 A. Well, if there had been government  
24 employment instituted there the district would have  
25 been abolished because the system would have been the  
26 same as in Port Weller-Sarnia. It would not be under  
27 the same provisions of the Act.

28 Q. It would have become under Part VI(A)?

29 A. That is correct.

30 Q. Still there would have remained a





1 pilotage district?

2 A. No, not if the pilots became government  
3 employees.

4 Q. So you do not have any pilotage dis-  
5 trict in District 2; Port Weller does not exist as  
6 a pilotage district?

7 A. This is correct.

8 Q. In your view; I see. Do you think  
9 the pilots receiving that telegram would rather have  
10 been left under the impression that the district would  
11 have been abolished in the normal sense of the word --  
12 that is, that it was the same threat as was used in  
13 the years before by the department when they would  
14 call pilots or discuss with pilots saying: "We will  
15 abolish your district if you don't behave"?

16 A. I do not think so.

17 Q. What is your meaning?

18 A. This was really an honest attempt  
19 to discuss the matter with the people who were going  
20 to be concerned.

21 Q. I see, so here there was a new  
22 meaning to the word "abolition"?

23 A. No, not a new meaning. It was  
24 still abolition of the district, which would have been  
25 necessary.

26 Q. You mean to say a pilot receiving this  
27 should have understood that abolition of the district  
28 in this case meant the same thing as it meant in 1958  
29 or 1959 when telegrams were sent?

30 A. I do not think it is thought that they





1 might have a different opinion.

2 Q. All right. In what way did the  
3 issuance of temporary licences to pilots who had  
4 permanent licences before -- in what way could this  
5 issuance help or affect the transformation of the  
6 district later on?

7 A. You asked me that question before,  
8 Mr. Lalonde.

9 Q. I know.

10 A. And I say in my opinion none. It  
11 would not have made any difference if they had issued  
12 the permanent licences.

13 Q. So you do not know why they were  
14 issued temporary licences only?

15 A. No.

16 Q. So I understand this decision was  
17 taken above you?

18 A. Oh, yes, this is correct.

19 Q. There was quite a crowd at that  
20 meeting, I understand, apart from the pilots' crowd,  
21 on February 28th in Ottawa?

22 A. You are going to ask me if I was  
23 there in a moment and I am not sure if I was or not.

24 Q. Maybe you have a memo of that meeting,  
25 a list of the people who attended. I may refresh  
26 your memory if you cannot find a note of that meeting.

27 A. I do not seem to have it here anyhow.

28 Q. The Minister was there, was he not?

29 A. Yes.

30 Q. The Deputy Minister Mr. Baldwin was







1 there?

2 A. I think so.

3 Q. I may refresh your memory; he was  
4 still walking with a cane; he had a skiing accident  
5 or something and was in some pain. Do you remember  
6 that?

7 A. I do not have any clear recollection  
8 of that meeting at all. They tell me I was there.

9 Q. Mr. Booth was there, was he not?  
10 You cannot remember?

11 A. I just do not remember. I have not  
12 any clear recollection of the meeting itself.

13 Q. Was a large staff from the Personnel  
14 Division there?

15 A. Probably.

16 Q. And Mr. Cumyn was there?

17 A. As I say, I cannot say Yes or No.

18 Q. You do not even remember whether you  
19 were there yourself or not?

20 A. I am afraid I am not sure now; I have  
21 not any clear recollection of it. I read about it,  
22 of course.

23 Q. Did you ever see such an impressive  
24 gathering for a meeting with pilots on behalf of the  
25 Department of Transport?

26 A. Possibly not. It just shows the  
27 importance that the department placed on this meeting.

28 Q. I understand that the department  
29 even paid the pilots' travel expenses for that meeting?

30 A. Yes, I believe they did. This is





1 really leaning over backwards, is it not?

2 Q. Do you know of any other instances  
3 where such generosity would have been shown?

4 A. No, I do not remember another instance.

5 Q. To come back to these sixteen licences  
6 which were issued, I am showing you the licence of  
7 Captain Raymond Bissonette, and there is a remark on  
8 his licence saying: "Held licence as pilot in former  
9 St. Lawrence-Kingston-Ottawa District from September  
10 28th, 1959," and I am informed he was licensed at  
11 the same time as fifteen other pilots in the district  
12 -- well, licensed at the same time as twelve others,  
13 to make thirteen.

14 CAPTAIN SEELEY: This is when he  
15 was acting as a learner pilot, I believe.

16  
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DIRECT EXAMINATION BY MR. JACQUES

1 Q. I understand that, in spite of  
2 all this show of strength and generosity, at the same  
3 time the pilots turned down the generous offer  
4 individually and unanimously; is that correct?

5 A. This is correct.

6 MR. JACQUES: Q. Question No. 3:  
7 Are the Canadian pilots in district 1 authorized under  
8 their registration certificate to do trans-lake work?

9 A. Yes, they are. I have here a  
10 specimen.

11 Q. We could file this? This is a  
12 registration certificate issued to Gaston Carignan  
13 for district No. 1 and it is endorsed for Lake Ontario.  
14 All the district No. 1 registration certificates are  
15 endorsed for Lake Ontario?

16 A. Yes; each of the Kingston district  
17 pilots received registration certificates which bear  
18 this endorsement.

19 Q. We have received at our request  
20 samples of various registration certificates. We  
21 have got some from district 3 with an endorsement for  
22 Lakes Superior, Erie, Huron and Michigan, and some  
23 Lake Ontario only, and some Lakes Ontario, Erie and  
24 Michigan for the Port Weller-Sarnia pilots; and,  
25 finally, for district 1, or the Kingston district,  
26 with no endorsement at all?

27 A. Well, this must be just an omission  
28 when the sample copy was made.

29 Q. When it was prepared?

30 A. Yes.







1 Q. Question No. 4, with respect to  
2 joint working rules, districts 1 and 2, filed as  
3 Exhibit 1013...

4 THE CHAIRMAN: Are you filing the  
5 other one?

6 MR. JACQUES: It has been filed, My  
7 Lord.

8 THE SECRETARY: Exhibit 1405.

9 THE CHAIRMAN: The registration  
10 certificate for a pilot in district No. 1, bearing  
11 endorsement for Lake Ontario?

12 MR. JACQUES: Yes.

13 THE WITNESS: This is an actual  
14 registration certificate which was held by a Kingston  
15 pilot who was transferred at his own request to  
16 Cornwall district, and it was handed in.

17 --- EXHIBIT 1405: Certificate of Kingston pilot.

18 MR. JACQUES: Q. Question No. 4,  
19 sub-section (a): What is the source of authority  
20 of the Port Weller supervisor to make regulations  
21 applicable to district 1 pilots?

22 A. I am advised that the source of  
23 his authority is the authority of the Minister of  
24 Transport to administer the Canada Shipping Act.  
25 As the officer of the Minister of Transport he is  
26 acting on behalf of the Minister of Transport.

27 Q. But is he appointed in any way as  
28 local supervisor? For district No. 1, or the  
29 Kingston district, isn't there a local supervisor, and  
30 that the supervisor at Port Weller is for district  
No. 2? The joint working rules, or inter-pool rules,





1 are rules which are applicable both to district 2  
2 pilots and district 1 pilots. District 1 pilots,  
3 or pilots of the Kingston district, come under the  
4 authority of the local supervisor in Kingston; they  
5 are not employees of the Crown in any way, shape, or  
6 form.

7 THE CHAIRMAN: In other words, in  
8 the No. 1 it is a district and in No. 2 it is not a  
9 district; the pilotage authority is not under the  
10 Minister?

11 MR. JACQUES: Yes; and the appointee  
12 of the Minister for district No. 2 is not given any  
13 authority at all under the Kingston bylaws -- the  
14 bylaws adopted by the pilotage authority for the  
15 Kingston district.

16 THE WITNESS: Well, this is again a  
17 legal point, My Lord. In any case, the working rules  
18 were made with the cooperation of the Kingston pilots,  
19 which, I think, I will bring out later.

20 MR. JACQUES: Q. But in theory  
21 a district 1 pilot finding himself in Port Weller  
22 could simply refuse to be despatched by the supervisor,  
23 or, I should say, the supervising pilot, in Port Weller  
24 because he has no authority over him?

25 A. Yes; and why would he want to  
26 do that, Mr. Jacques?

27 Q. I don't know. Why do people want to  
28 do some things?

29 A. We have more confidence in the  
30 pilots than that.





1 THE CHAIRMAN: There could be a  
2 question to be faced in the matter of discipline and  
3 you want to charge a pilot for disobeying an order.

4 THE WITNESS: Yes.

5 THE CHAIRMAN: Then you would be  
6 running into difficulty through the authority of the  
7 despatching pilot.

8 THE WITNESS: I quite see that, My  
9 Lord.

10 MR. JACQUES: Q. And there is the  
11 question of whether he is on duty or not when he is  
12 being despatched by a gentleman who has no authority  
13 over him?

14 A. Yes; of course, this point was  
15 never brought up.

16 Q. Sub-question (b): What is the  
17 source of authority of the Port Weller supervisor  
18 to conclude arrangements or agreements with the U.S.  
19 authority?

20 A. Well, the memorandum of arrangements  
21 provides in section 3 (m) that the United States  
22 Secretary of Commerce and the Canadian Minister of  
23 Transport respectively will establish such regulations  
24 and rules for the operation of pilotage pools as may  
25 be deemed necessary.

26 The supervisor acts under the in-  
27 structions of the Department for the Minister in  
28 agreeing on working rules.

29 Q. Yes; and where can we find his  
30 authority to enter into negotiations with a foreign







1 country?

2 A. He is not; he is entering into  
3 negotiations with individuals in a foreign country.

4 Q. Well, the Great Lakes Pilotage  
5 Administrator?

6 A. Well, he is authorized to do it by  
7 the Department.

8 Q. Is this verbal authority?

9 A. Maybe he is another nenentity like  
10 me!

11 Q. Is it verbal authority?

12 A. I would say so, yes. It might have  
13 been done by letter or it might have been done by  
14 telephone.

15 Part of the supervisor's work there is  
16 to work with his counterpart on the American side.

17 Q. I thought the practice in Canada  
18 was for international agreements to be concluded through  
19 whatever normal channels there may exist, whether  
20 embassies or consulates, and that the signature of  
21 the agreement be authorized by Order-in-Council...

22 A. Well, these are working rules...

23 Q. I am not finished.

24 A. I am sorry.

25 Q. ...and until such steps have been  
26 taken there is nothing binding on the Canadian  
27 Government.

28 A. Well, these working rules are not  
29 statutory regulations; they are merely an operating  
30 practice which is agreed to by the two bodies immediately





1 concerned.

2 Q. Yet they are binding, or purport  
3 to be binding, on Canadian subjects who are not  
4 government employees?

5 A. But the Canadian subjects you are  
6 speaking of, who are not government employees, are  
7 operating under a registration certificate which brings  
8 them within the scope of the two respective legislations  
9 dealing with Great Lakes pilotage.

10 Q. Then, under what section of Part VIA  
11 is the Minister empowered to adopt these regulations,  
12 and, if he so has adopted them, then please find the  
13 Order-in-Council? --

14 THE CHAIRMAN: Could we keep this  
15 question for Mr. Macgillivray?

16 MR. JACQUES: Perhaps that would be  
17 better, My Lord.

18 THE WITNESS: Thank you, My Lord.

19 It becomes clearer and clearer that  
20 pilotage does not lend itself to these legalities.

21 THE CHAIRMAN: I don't agree. I have  
22 more faith than that in the law and regulations.

23 THE WITNESS: Maybe it is the people  
24 who make them that are in error.

25 MR. JACQUES: With respect to these  
26 rules, was the pilots committee of the Kingston pilots  
27 consulted, and, if so, where when and how?

28 A. The rules were finally published  
29 in 1963, after a meeting attended by representatives  
30 of the district No. 1 U.S. pilots and the Canadian





1 Kingston pilots, the supervisors from Port Weller and  
2 Cornwall and representatives of the United States  
3 Administration.

4 Q. Are these rules, which have been  
5 filed as Exhibit 1013, and which I shall exhibit to you,  
6 still in force? We don't know whether they have  
7 been revised, and we thought perhaps they had been  
8 revised?

9 A. These rules are still in force,  
10 but are in process of being revised now.

11 MR. JACQUES: Thank you.

12  
13 CROSS-EXAMINATION BY MR. LALONDE:  
14

15 Q. I understand that some amendment  
16 is due to be put into effect pretty soon; is that  
17 correct?

18 A. There are local discussions going on,  
19 but we have no proper information concerning it yet.

20 Q. The meeting that you referred to --  
21 you said that the supervisor of Port Weller was present?

22 A. Yes.

23 Q. Do you know whether he was present  
24 at the same time as the United States and Canadian  
25 pilots and supervisor in Cornwall?

26 A. This is my information.

27 Q. Was there a joint meeting of all  
28 these people?

29 A. I am informed that the answer is  
30 Yes, that there is a letter from Captain Edwards stating







1 that.

2 Q. I am informed -- I was not present  
3 at the meeting in question -- but the pilots'  
4 representatives were present anyway. There might have  
5 been another meeting.

6 Then, I notice that the Canadian pilots  
7 -- the representatives of the Canadian pilots in  
8 district 1 -- were present at that meeting, according  
9 to your evidence?

10 A. Yes.

11 Q. The representatives of the Canadian  
12 pilots of the Port Weller-Sarnia area were not  
13 represented, however; is that correct?

14 A. No, apparently.

15 MR. JACQUES: Q. Would you say that  
16 the Pilots Committee was at that meeting as the director  
17 of a corporation?

18 A. He just says that there were  
19 representatives, and I take it that they would be the  
20 Pilots Committee who, after all, are the same people  
21 as the directors.

22 Q. Question No. 5: How many  
23 Canadians are now holding the registration certificate  
24 for Lake Ontario only?

25 A. There are four Canadians.

26 Q. At the moment?

27 A. At the moment; holding registration  
28 certificates for Lake Ontario only. These pilots are  
29 not licensed for the Kingston district.

30 Q. And under what authority was this





1 registration issued, or this licence for Lake Ontario?

2 A. Under the same authority as all  
3 the other registration certificates issued under the  
4 Great Lakes pilotage legislation.

5 Q. And under whose jurisdiction do  
6 they come?

7 A. Under the jurisdiction of the  
8 government that issues the registration; that is,  
9 Canada in this case.

10 Q. But, more particularly? I can't  
11 very well pick up the phone and phone Canada and say  
12 "I am having trouble." Who is their immediate  
13 superior?

14 A. I am sorry; that would be Captain  
15 Edwards.

16 Q. And where could I find his terms of  
17 reference in regard to Lake Ontario pilots?

18 A. You can't.

19 Q. Why not?

20 A. Because there are no terms of  
21 reference, in this sense, laid out. He acts for the  
22 Department, keeping the operation running smoothly.

23 Q. And there are no written rules  
24 with respect to working conditions of Lake Ontario  
25 pilots except what we can find in the memorandum of  
26 agreement with respect to the charges which they may  
27 make?

28 A. Only the inter-pool working rules.

29 Q. It would come under the inter-pool  
30 working rules? --





1 THE CHAIRMAN: They are not part of  
2 the Kingston district?

3 THE WITNESS: No, they are not, My Lord.

4 MR. LALONDE: They are not government  
5 employees, however?

6 THE WITNESS: No, they are not.

7 MR. JACQUES: Q. And from the  
8 point of view of discipline, who could discipline  
9 them if the need ever arose?

10 A. As I understand it, the registration  
11 certificate could be withdrawn if they were not  
12 satisfactory.

13 Q. Under the provisions which were  
14 discussed yesterday?

15 A. Yes.

16 Q. And about which we entertained  
17 some doubt?

18 A. Yes.

19 BY MR. BRISSET:

20  
21 Q. These four trans-lake pilots come  
22 under the jurisdiction of the Cape Vincent despatching  
23 office; is that correct?

24

25

26

27

28

29

30







1 A. We rather dislike the term "juris-  
2 diction" in that context, Mr. Brisset. They do work  
3 under instructions from the Cape Vincent despatching  
4 office.

5 Q. In other words it is Cape Vincent  
6 office that despatches them?

7 A. This is correct.

8  
9 CROSS-EXAMINATION BY MR. LALONDE:

10 Q. Isn't it a fact that west of Cobourg  
11 these pilots come under the control or jurisdiction or  
12 whatever the word is, I don't know, of Captain Watson  
13 at Port Weller?

14 A. Yes, this is correct. There is a  
15 cut-off in the lake there where despatching is looked  
16 after by Captain Watson.

17 Q. And it would apply to all normal  
18 control of these pilots in case of offences or anything  
19 of the sort? Disciplinary measures would come under  
20 Captain Watson?

21 A. Yes, I suppose so.

22 Q. You don't know?

23 A. We have never really considered this  
24 matter.

25 Q. You never had trouble?

26 A. No.

27 THE CHAIRMAN: I suppose it would  
28 boil down to a question that they would be under the  
29 Minister and it would be a delegation of power if in  
30 fact there is any trouble?





1 THE WITNESS: Not under the Minister,  
2 my lord, because the Minister under Part VIA is given  
3 two sets of powers. One, to exempt only the masters from  
4 the requirements of the Act, and (2) prescribe or fix  
5 the number of Canadian pilots. That is all, and that  
6 is the only authority he has.

7 THE CHAIRMAN: That is all right.

8  
9 MR. JACQUES: He can change that  
10 overnight. If things don't go according to his wishes  
11 he would say, all right, there would be one Canadian  
12 pilot, and if one Canadian pilot gives trouble he can  
13 say tomorrow morning we will license fifty of them, but  
14 apart from that the only authority given is to the  
15 Governor in Council to make regulations, and you can't  
16 delegate a power which has already been delegated.

17 MR. LALONDE:

18 Q. So that Watson would have some  
19 jurisdiction or control over these pilots who are not  
20 government employees?

21 A. In the sense of despatching them, yes.  
22 As to disciplinary matters, if such a thing did come up,  
23 it would be a matter of his making a report on the  
24 incident and describing what happened.

25 Q. And you would make a decision?

26 A. The decision would be made in Ottawa.

27 MR. JACQUES: Have you ever thought  
28 of this eventuality that you might have to take dis-  
29 ciplinary action against one of the registered pilots?

30 THE WITNESS: Frankly, no, because





1 it was taken for granted that the person who has the  
2 authority, that issues a certificate, has also the  
3 power to withdraw it. So that if a man is not satis-  
4 factory he can be struck off the register as is  
5 mentioned in the regulation.

6 THE CHAIRMAN: When we are talking  
7 on a question of discipline, we have to be careful.  
8 It is a question of semantics here as to whether it  
9 affects only the licence or whether it affects also  
10 the person; a fine or reprimand, or something like  
11 that, which is a real penal action, while the other  
12 is just something with regard to the labour contract  
13 or the hiring of men. You have two sets of regula-  
14 tions for both.

15 MR. LALONDE: It would appear, my  
16 lord, in this instance only the power is the power of  
17 the guillotine, and whatever the offence the man can  
18 be ruled out of existence as a pilot.

19 THE CHAIRMAN: That is right.

20 MR. JACQUES: The only sanction  
21 is the deletion of the pilot's name from the register.

22 THE CHAIRMAN: I suppose we could  
23 go farther and say delete it for a few days and then  
24 come back.

25 MR. JACQUES: I am not inclined to  
26 agree with your lordship.

27 THE CHAIRMAN: It is like an employer  
28 who can fire a man and reengage him a few days after.

29 MR. JACQUES: I agree with your  
30 lordship in the case of an employer-employee relation-







1 ship ---

2 THE CHAIRMAN: Let us not argue.

3 MR. JACQUES: --- but the translake  
4 pilots are not employees of anyone except the ship  
5 master.

6 THE CHAIRMAN: That is all right.  
7 It is getting more complicated.

8  
9 DIRECT EXAMINATION BY MR. JACQUES:

10 Q. No. 6, any rule or procedure laid  
11 down with respect to precedence or seniority of Lake  
12 Ontario pilots when new appointments of District 1  
13 pilots have to be made.

14 A. When the first pilots were appointed  
15 for Lake Ontario, the department followed the Kingston  
16 pilots' committee recommendation that men who had al-  
17 ready passed the examination for the St. Lawrence-  
18 Kingston-Ottawa Pilotage District should be appointed.  
19 The idea was that they would then be readily available  
20 for transfer to the river when vacancies might occur.  
21 All these men have now been absorbed into the dis-  
22 trict.

23 Q. Was there an order of seniority?

24 A. It would have been the order in which  
25 they appeared on the eligible list, following the  
26 first examination.

27 Q. And that would have been as a result  
28 of the examination, the first examination?

29 A. This is right.

30 Q. That is merely a question of age or  
time as apprentice or pilot?





1 A. No. They hadn't been an apprentice  
2 or pilot. They took the examination for the river.

3 Q. Were they given by the department  
4 to understand that they would be given a preference  
5 with respect to employment in District 1?

6 A. I think the first group were. Yes.  
7 These men who had already passed the examination, it  
8 was understood that they would.

9 Q. What is the position now?

10 A. The position now is we have four men  
11 there who haven't been examined in the river at all.

12 Q. If you were to require pilots for  
13 District 1 how would you proceed?

14 A. We would have to have a competition,  
15 an open competition, which incidentally it is intended  
16 to have after the close of navigation this year.

17 Q. So the four lake pilots are on equal  
18 footing?

19 A. They are.

20 THE CHAIRMAN: Mr. Brisset?

21 CROSS-EXAMINATION BY MR. BRISSET:

22 Q. Would these four lake pilots be given  
23 any training in the river before being appointed to  
24 pilot in the river itself?

25 A. You mean the pilots that have been  
26 appointed to the river, Mr. Brisset?

27 Q. No, I am speaking ---

28 A. Or present lake pilots?

29 Q. Present lake pilots.

30 A. The thing there will be that there will





1 be a competition. They will be free to apply for  
2 examination on the same basis as anybody else. These  
3 men probably I think they have experience in the river.  
4 That is required under the bylaws, and as I say, they  
5 would be on the same footing as anybody else, and their  
6 showing in the examination would set their place on  
7 the eligible list.

8 Q. In other words, a written examination  
9 will be sufficient to qualify them for river work?

10 A. Oh, no. Not a written examination  
11 only. When these examinations are called in the  
12 districts -- I mean for the districts under Part VI --  
13 there is a procedure laid down in the bylaws, and the  
14 examination includes a written examination and an oral  
15 examination which is handled by the pilots' committee  
16 members.

17 Q. But it does not require for the  
18 candidate a period of actual piloting in the river?

19 A. It doesn't require it now, no. Ex-  
20 cept, of course, the prerequisite is that they must have  
21 been serving in ships passing through the district for  
22 a certain period of time.

23 Q. That is before they get their regis-  
24 tration to do translake work?

25 A. We must not confuse this, Mr. Brisset.  
26 The registration for translake work is a completely  
27 separate thing. These will not have any effect on  
28 their possible appointment to the river later on.

29 Q. When it comes to their appointment  
30 to the river you will look up their record prior to







1 giving lake work, their record of sailing in the  
2 district. Is that what you mean?

3 A. Yes.

4 MR. LALONDE: Isn't it a fact also  
5 you will require even after they have been chosen a  
6 certain number of trips aboard deep sea ships as observer-  
7 pilot or trainee for a certain time?

8 THE WITNESS: This is the practice  
9 we like to set up, yes.

10  
11 DIRECT EXAMINATION BY MR. JACQUES:

12 Q. Question No. 7, is there any appren-  
13 ticeship scheme being considered at the present time  
14 in District 1? Perhaps your answer was prepared for  
15 District 2, but I think that is a misprint.

16 A. The answer could be given the same  
17 for either district.

18 Q. Yes?

19 A. There is no apprenticeship scheme in  
20 the strict sense of the word, in the sense that is  
21 usually attached to apprenticeship with indenture,  
22 but we are discussing now with the United States Great  
23 Lakes Administrator, Pilotage Administrator, the  
24 establishing of a practice whereby lake pilots would  
25 be taken on with the full knowledge that they would be  
26 recruits for the districts concerned.

27 Now, this would affect these men in  
28 Lake Ontario at the moment. We will have to do some-  
29 thing about them before this practice can be set up  
30 there, but we are just discussing it now, Mr. Jacques.





1 Q. Have you discussed let us not say  
2 apprenticeship but a method of training prospective  
3 pilots for Districts 1 and 2, training them in that  
4 particular district?

5 A. This is it. This is the practice that  
6 the Americans have now. They take on what they call  
7 applicant pilots on the lake.

8 Q. Frankly, I fail to see how a man cross-  
9 ing Lake Ontario for several years could become pro-  
10 ficient in District 1 or District 2.

11 A. You didn't let me finish.

12 Q. I am sorry.

13 A. While they are on lake work they are  
14 required to do occasional trips as observers in the  
15 river.

16 Q. I see. Have you arrived at an  
17 agreement on the number of trips that they must do?

18 A. No, we haven't reached this point yet.

19 Q. You haven't reached that point yet?

20 A. This is just in the tentative stages.

21 Q. But that would be an apprenticeship  
22 scheme, they would do work, lake work, and would be  
23 obliged to perform so many trips in the district?

24 A. This is correct, in order to prepare  
25 themselves to enter the district at any time.

26 Q. I see. Is this applicable to both  
27 Districts 1 and 2?

28 A. We hope it will. As I say, this is  
29 quite tentative now.

30 Q. So Lake Ontario pilots could go either





1 in District 1 or District 2?

2 A. I don't think this would be the case.  
3 Again I am speaking tentatively, but I think that the  
4 Lake Ontario pilots would be attached, shall I say, to  
5 the Kingston District.

6 Q. Who would be attached to the Port  
7 Weller-Sarnia District?

8 A. The pilots above Sarnia, Lake Ontario  
9 and Lake Michigan.

10 Q. Lake Ontario and Lake Michigan?

11 A. I am sorry, Lake Huron and Lake  
12 Michigan.

13 Q. Has the department consulted with the  
14 pilots or their representatives of Districts 1 and 2  
15 with respect to this scheme?

16 A. Not yet. This is only just coming  
17 to the point of being discussed, but I know or at least  
18 we think we know that this idea would please the Kingston  
19 pilots because this is what they recommended some years  
20 ago.

21 Q. Have you consulted with the shipowners?

22 A. No.

23 Q. Do you plan to consult with the ship-  
24 owners?

25 A. I don't know.

26 Q. With the pilots, Canadian and American?

27 A. It is not necessary, Mr. Jacques.

28 MR. BRISSET: Captain, if open water  
29 pilotage is abolished your source -- eventually, as we  
30 hope -- your source of apprenticeship will be dried up?







1 THE WITNESS: This is correct. Some  
2 other plan would have to be evolved.

3 MR. JACQUES:

4 Q. Question No. 8, with respect to the  
5 eastern end of the district, Snell Lock and St. Regis,  
6 where pilotage operations are performed by pilots of  
7 another district; that is, the Cornwall District, what  
8 were the reported accidents spoken of in the evidence,  
9 Volume 72, page 8922?

10 A. We took it that one of the incidents  
11 mentioned occurred on October 29, 1962. A United States  
12 ship -- do you need the name?

13 Q. Yes.

14 A. CAPTAIN NICHOLAS SITILAS. This ship  
15 was upbound, and when she was approaching the Snell  
16 Lock she was caught in a gust of strong wind, and in  
17 spite of the pilot's efforts the ship settled on the  
18 mud on the side.

19 Q. Was the pilot a Canadian or American?

20 A. Yes, he was a Cornwall pilot.

21 Q. So he was a Canadian pilot?

22 A. There are no American pilots acting  
23 then. The second one was on May 8th, 1962. The  
24 ship was called the POLYKTOR. She was also upbound  
25 and the report is that the pilot had recommended that  
26 the ship be ballasted but the master had said this  
27 could not be done, and again approaching the lock a  
28 gust of wind caused the ship to sheer, and just as she  
29 was about to enter the lock, and she made a dent in  
30 her bow.





1 Q. These are the only two accidents?

2 A. The only two that we have record of.

3 Q. The only two you have record of, yes.

4 A. And there was no inquiry held into  
5 either of those casualties other than the normal  
6 questioning of the pilot when he makes his report.

7 Q. The pink sheet?

8 A. The pink sheet.

9 Q. Have you ever considered taking  
10 measures how to legalize this situation of having  
11 Canadian pilots who might be involved in casualties  
12 in foreign waters? Is there an agreement between  
13 Canada and the U. S. such as we have, for instance,  
14 between Canada and the Commonwealth countries?

15 A. If a Canadian pilot is involved in a  
16 casualty in American waters, then he does come under  
17 the laws of the United States, but we do have a working  
18 arrangement with the Coast Guard on this.

19 This does not relieve the pilot from  
20 being penalized under the laws of the United States,  
21 but this is answering Question 11, Mr. Jacques?

22 Q. Yes, but I was thinking of the pilot  
23 who is licensed obviously solely for Canadian waters  
24 who acts as pilot in foreign waters. The legal impli-  
25 cations would be far-reaching. It would be first contra-  
26 vening the law because he couldn't pilot in American  
27 waters. He could no more pilot between Snell and St.  
28 Regis than he could in New York harbour.

29 A. This is the same situation that has  
30 existed for thirty years in the St. Lawrence-Kingston-





1 Ottawa District.

2 Q. And it has never given any problem?

3 A. No, because we have felt - - I have  
4 felt that even though a pilot does go outside his  
5 district, he does so obviously in this case with  
6 the approval of his supervisor. So he is still  
7 under the instructions or the jurisdiction of his  
8 supervisor so that if he puts a ship into trouble  
9 while he is outside his district, in that sense with  
10 the instructions of his supervisor he is still  
11 responsible for the safety of the ship.  
12  
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1 Q. Well, I would not agree with you  
2 because in this particular case not only is he going  
3 out of his district -- which he can do under the law  
4 with the authority of the supervisor -- but he is  
5 piloting in foreign waters.

6 THE CHAIRMAN: This is legal argument,  
7 so we will leave it at that.

8 MR. JACQUES:

9 Q. And it has never come up for discus-  
10 sion?

11 A. It has not come up for discussion, but  
12 this is one of the obviously unsatisfactory factors in  
13 the old St. Lawrence-Kingston-Ottawa district.

14 Q. And to your knowledge this has  
15 never created any difficulty, let us say, in any court  
16 case? You have never heard of this difficulty being  
17 raised between the courts, either the Canadian or the  
18 American courts?

19 A. No, I have not.

20 THE CHAIRMAN: We had a similar  
21 problem but not to the same extent in British Columbia  
22 with pilots being despatched from outside the district  
23 from American waters or disembarking in American waters  
24 as to whether this is part of the pilotage authority  
25 to so despatch. This is a question that does not  
26 seem to be very settled with the department. Per-  
27 sonally I think it is part of the despatching power to  
28 do that and to fix the rates in there because it is  
29 part of the despatching of that district. Pilotage  
30 cannot be done in certain districts without this being





1 done, so therefore I think it is part of that. But  
2 in any event this is a question to be studied.

3 MR. JACQUES: With District No. 1 I  
4 would be in agreement, but with the Cornwall District,  
5 which is strictly under Part VI of the Act . . .

6 Q. The shipowners have never raised the  
7 point with you?

8 A. No.

9 Q. The pilots themselves?

10 A. No.

11 MR. LALONDE: I must say, my lord,  
12 I raised the point on some other occasions of discus-  
13 sions at least as to what would happen.

14 THE CHAIRMAN: Maybe it is because  
15 he did not have written authority.

16 MR. LALONDE: A written mandate from  
17 my clients. I must also state, my lord, that for over  
18 a year I have been in correspondence with the American  
19 Great Lakes Pilotage Administration over that particular  
20 problem and it seems to be a very thorny problem indeed  
21 because I have never been able to get an answer -- only  
22 that the matter is under consideration or "We will soon  
23 consult the U.S. coast guard," and "We have difficulty  
24 in arranging a meeting", and all that. I have not been  
25 able to get any answer.

26 MR. JACQUES: To whom did you write?

27 MR. LALONDE: I wrote to Captain  
28 Meschter who answered that the matter would be raised  
29 with the U. S. coast guard eventually.

30 MR. JACQUES:





1 Q. Has Captain Meschter got in touch  
2 with you in that respect?

3 A. I do not recall that he has. Captain  
4 Seeley tells me that Captain Meschter has mentioned it.

5 MR. LALONDE: You mentioned two  
6 accidents, Captain Slocombe. I am informed that there  
7 might have been two other accidents not too distant.  
8 One was the case of the ANDORIA", which would be about  
9 the first year of the opening of the Seaway in 1959  
10 and the case of the INVER not later than 1962.

11 THE WITNESS: I am told these are  
12 the only two we can find in our records.

13 MR. LALONDE: Thank you.

14 MR. JACQUES:

15 Q. Question No. 9: I show you Exhibit  
16 827, which is the list of reported casualties. What  
17 method have you followed in the compilation of this  
18 data for that district and also the other districts?

19 A. We have just taken whatever information  
20 we have in whatever form.

21 Q. What sources of information do you  
22 have in the department?

23 A. Well, if a pilot is involved we should  
24 have the pink pilot's report. Also if it is a British  
25 ship involved we should have the statutory wreck report,  
26 casualty report.

27 Q. What about an American laker; you  
28 would have no pilot and he is not British?

29 A. Then we might not have any record  
30 at all, but whatever record we do have was used in







1 compiling that sheet.

2 Q. So again we must say, as was said  
3 before, that these are the casualties reported to the  
4 department but not an exhaustive list of all casualties  
5 in Canadian waters?

6 A. This is correct.

7 Q. There might be some missing out of  
8 that list?

9 A. There probably are.

10 MR. LALONDE: While we are on this  
11 question of casualties, did you have time to check in  
12 the list of ships which was handed back to you and  
13 Captain Jones during the last week of evidence, of  
14 groundings of Canadian lakers or American lakers which  
15 did not appear to be reported and you were to check  
16 on these casualties? Could I have your report on  
17 that?

18 THE WITNESS: I am told that Captain  
19 Catinus still has this and, as you know, Captain  
20 Catinus is very much involved in the LEECLIFFE HALL  
21 at the moment.

22 MR. LALONDE: It is just that the  
23 Commission will not be sitting after tomorrow.

24 THE WITNESS: We can take care that  
25 the Commission gets this information.

26 THE CHAIRMAN: In any event we  
27 will be sitting in January so any special questions  
28 like that could be cleared up in January.

29 MR. JACQUES:

30 Q. Question No. 10 -- details of accidents





1 involving the SILVER ISLE and PRINCE ALEXANDER in 1963?

2 A. This collision between the SILVER ISLE  
3 and the PRINCE ALEXANDER was a straight case of failure  
4 to adhere strictly to the Great Lakes rules of the road.  
5 The casualty was investigated by the U. S. coast guard  
6 who imposed fines.

7 Q. Do you have the summary or the report  
8 of the investigator?

9 A. We have it on file and a copy can be  
10 deposited, if you like.

11 Q. Yes, since it involves, as you say,  
12 failure to adhere to the rules of the road I would  
13 appreciate it if you were to let us have a copy of the  
14 report.

15 A. I will get a copy of that.

16 MR. JACQUES: It is already filed,  
17 my lord, as Exhibit 824.

18 MR. BRISSET: My lord, this case is  
19 presently pending in court and the trial is to be held  
20 this winter, we expect in February. If the court  
21 wants to have the judgment when it is rendered we  
22 shall be pleased to supply a copy.

23 THE CHAIRMAN: I do not know whether  
24 you will be pleased. We will find out when we know  
25 what the judgment is.

26 MR. BRISSET: I have the best case,  
27 I hope, having a good pilot on board our ship.

28 THE CHAIRMAN: Thank you. We will  
29 take note of that.

30 MR. JACQUES:





1 Q. Question 11 -- State procedure fol-  
2 lowed for investigations of casualties or charges made  
3 against U. S. and Canadian pilots in District 1, and  
4 was the same thing done with the other Great Lakes  
5 pilotage districts?

6 A. Yes. We have a working arrangement  
7 with the U. S. coast guard.

8 Q. Is that in writing?

9 A. Yes, it is, and I have here copies  
10 of it. This is a copy of a letter signed by Mr.  
11 Baldwin addressed to Vice-Admiral Alfred C. Richmond,  
12 Commandant of the U. S. Coast Guard, dated September 7,  
13 1961, and the reply from Admiral Richmond dated 25th  
14 September, 1961.

15 MR. JACQUES: I should like to file  
16 this document as Exhibit 1406.

17 ---EXHIBIT NO. 1406: Working Rules with respect  
18 to Investigations into  
19 casualties involving Canadian  
20 and U. S. pilots on the Great  
21 Lakes and/or violations of  
provisions of pilotage legis-  
lation.

22 THE CHAIRMAN: You may take your  
23 time to study it, if you want.

24 MR. LALONDE: My questions will be  
25 of a general nature, my lord.

26 Was this arrangement ever made  
27 public before today?

28 THE WITNESS: Not as far as I know.

29 MR. LALONDE: The pilots were not  
30 informed of what the procedure followed would be?







1 THE WITNESS: Not as far as I know.

2 MR. JACQUES:

3 Q. Question No. 12 -- In the case of  
4 the two Kingston pilots under contract with CSL, what  
5 licences do they now hold?

6 THE CHAIRMAN: Excuse me. Have you,  
7 Mr. Brisset, any questions on the question of the pro-  
8 cedure of inquiries?

9 MR. BRISSET: I would like to suspend  
10 this until after the recess, my lord.

11 THE CHAIRMAN: All right.

12 MR. JACQUES:

13 Q. The two CSL pilots; I should like you  
14 to confirm whether or not they are licensed for the  
15 Cornwall-Kingston district?

16 A. They hold licences for both Cornwall  
17 and Kingston districts.

18 Q. Are they also registered for District  
19 No.1?

20 A. No, they are not, because they do not  
21 act as registered pilots. They only serve on ships  
22 of Canada Steamship Lines, which do not fall under  
23 the jurisdiction of the Great Lakes Pilotage Act.

24 Q. Under whose control do they come,  
25 the supervisor of Cornwall or the supervisor of Kingston?

26 A. They would come under whichever --  
27 this would depend upon which district they were working  
28 in at the moment.

29 Q. So if a violation of (I do not know)  
30 any rule in the Cornwall district occurred they would





1 answer to the supervisor of Cornwall?

2 A. In Montreal.

3 Q. And if it happened in the Kingston  
4 district he would answer to the supervisor of the  
5 Kingston district?

6 A. This is correct. Of course, you  
7 understand the supervisor at Cornwall does despatch  
8 downwards and his despatching instructions would have  
9 to be obeyed.

10 Q. I believe they come under the juris-  
11 diction of the supervisors only when they are despatched  
12 on vessels other than CSL ships?

13 A. This has never, as far as I know,  
14 been done. There is provision in the bylaws that if  
15 they were short of pilots at some time they could be  
16 called upon to act on other vessels but they could not  
17 do this in the Kingston district now without being  
18 registered as registered pilots. So this would  
19 create an added difficulty.

20 Q. But is this not granting CSL an  
21 indirect exemption?

22 A. From what?

23 Q. From the compulsory payment of  
24 pilotage or compulsory pilotage?

25 A. No. They are already exempt from  
26 the compulsory payment of pilotage dues, the ships  
27 on which they would work.

28 Q. They would not have to employ a pilot  
29 -- they would not have to pay the pilot?

30 THE CHAIRMAN: Normally.





1 MR. JACQUES:

2 Q. Normally?

3 THE CHAIRMAN: The pilotage dues.

4 MR. JACQUES:

5 Q. They would not have to pay pilotage  
6 dues?

7 A. This is correct.

8 Q. But if they take a pilot they have to  
9 pay the dues?

10 A. Yes.

11 Q. And yet the CSL does not pay pilotage  
12 dues when they employ ---

13 A. When they employ these men, no,  
14 because this is provided for in the bylaws -- that the  
15 tariff does not apply to the work of these men.

16 Q. So this is discrimination in the  
17 tariff in favour of the CSL?

18 A. Oh, yes, and it was done right from  
19 the beginning, because these men had been employees  
20 of CSL and participants in the pension plan and so on  
21 for many years. This is only for these remaining men  
22 who are under this arrangement with the CSL.

23 Q. Do you think the Authority can  
24 discriminate in the charges which will be made?

25 A. I think Section 329, Mr. Jacques,  
26 does say that they can institute tariffs on the same  
27 or different bases, or something like this.

28 Q. And you interpret this as meaning  
29 that you can say tomorrow in the St. Lawrence River  
30 CPR ships will pay \$200, CNR ships would pay \$50 and







1 Orange-Fjell Line will pay \$10?

2 A. We do this in effect in other places  
3 already. We do not name ships in that way. But  
4 Sydney, for instance, has a special provision for  
5 ships which enter the port at least once every forty-  
6 eight hours, or something like this.

7 MR. JACQUES: Thank you.

8  
9 CROSS-EXAMINATION BY MR. LALONDE:

10 Q. Did you say that these pilots were  
11 despatched by your supervisor?

12 A. Oh, no, they would not be -- no,  
13 they take the orders from the company.

14 Q. Are they otherwise subject to all  
15 other examinations for physical fitness, and all that,  
16 that the other pilots are required to take?

17 A. This is set out in the bylaw. What-  
18 ever the bylaw says there -- I am not sure at the  
19 moment.

20 Q. You have seen before bylaws are not  
21 abided by sometimes. I was wondering whether in  
22 effect they were subject to the same regulations?

23 A. They have to take the same examina-  
24 tions as the other pilots do periodically -- eyesight  
25 examinations, and so on.

26 THE CHAIRMAN: And they are bound by  
27 the age limit of the law?

28 THE WITNESS: Seventy years, yes.

29 MR. LALONDE:

30 Q. I notice that under the bylaw the





1 company that employs these pilots -- that is, the  
2 CSL company -- is required to deposit within one week  
3 after the opening of the navigation in each year a  
4 copy of the contract under which the pilot is employed.  
5 Do you know whether this practice has been followed?

6 A. Yes, I have a copy of one of them.

7 Q. We have one already filed in Montreal.  
8 I was just wondering whether you received these con-  
9 tracts?

10 A. Yes, we do. We have them on file.

11 THE CHAIRMAN: Are there any further  
12 questions on No. 12?

13 We will take a break now.

14 ---Short recess.  
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1 THE CHAIRMAN: Yes, Mr. Brisset?

2 BY MR. BRISSET: Q. I am now ready  
3 to ask questions on question No. 11.

4 Captain, am I right in understanding  
5 that the arrangements with regard to investigations,  
6 as recorded in the exchange of letters between the  
7 Department and the United States Coastguard, Exhibit  
8 1406, are the current arrangements, that there have  
9 been no changes made?

10 A. Yes, that is correct.

11 Q. Under what circumstances would  
12 the Department of Transport investigate a casualty  
13 involving a United States registered pilot?

14 A. If the casualty occurred in  
15 Canadian waters we would investigate it.

16 Q. That would be the only case?

17 A. Yes, this is correct.

18 Q. Now, in connection with such an  
19 investigation the agreement records -- and I quote:

20 "It is also agreed that upon  
21 request a copy of the record of proceedings  
22 will be supplied to the United States  
23 Coastguard on the understanding that  
24 such record will be considered as con-  
25 fidential and not made public without  
26 prior agreement of the  
27 Department of Transport."

28 What has been the policy of the Department in the past --  
29 to allow the record to be made public, or to remain  
30 confidential?







1 A. To remain confidential, so far.  
2 I don't know of any case where we have made it public,  
3 no.

4 Q. What is the reason for the difference  
5 in procedure between the Coastguard inquiry and the  
6 Departmental inquiry, for, as you know, the Coastguard  
7 inquiry is a public one?

8 A. The reason is that this is provided  
9 for in their law and not in our law.

10 Q. Now, in the case of a United States  
11 Coastguard inquiry involving Canadian personnel, I  
12 would assume that this will take place when the  
13 accident or casualty occurs in United States waters?

14 A. Yes.

15 Q. Now, is the policy of the Department  
16 in such cases that the record of the investigation  
17 before the Coastguard is not to be made public, again?

18 A. Again, not without their permission.

19 Q. Or, rather, without your permission?

20 A. This would be a proceedings of  
21 the American...?

22 Q. Yes?

23 A. Well, then, it would have to be  
24 with their permission in that case.

25 Q. Well, the way I read this letter is  
26 that if the United States Coastguard is to carry out  
27 an investigation of an accident happening in United  
28 States waters but involving Canadian personnel the  
29 Department would not permit the Coastguard to make  
30 the record public?





1 A. Oh, no; this isn't so. This  
2 is their law. The procedure is set out in their law  
3 and they must follow it.

4 Q. I will quote from the letter:

5 "This agreement is subject to  
6 agreement by the United States Coastguard  
7 that similar action will be taken by the  
8 Department of Transport in the case of  
9 any investigation or inquiry held by the  
10 Coastguard into a casualty or incident  
11 involving Canadian personnel..."

12 I should not read into this an obligation, or an  
13 agreement, on the part of the Coastguard that it will  
14 not make their record public without the prior  
15 agreement of the D.O.T?

16 A. No, I don't think so, Mr. Brisset;  
17 because they are bound by their law.

18 Q. In the case of the SILVER ISLE  
19 and PRINZ ALEXANDER, which was a collision in U.S.  
20 waters but involving a Canadian pilot, the record of  
21 the investigation on the American side was made public  
22 in the sense that it was communicated to those  
23 representing the other vessel; so I assume that this  
24 was so because of the present status of the American law?

25 A. I assume so, Mr. Brisset.

26 DIRECT EXAM. BY MR. JACQUES: Q. Conversely, has  
27 the Department ever been requested by the Coastguard  
28 or the American authorities to make the result of  
29 a Canadian inquiry public?

30 A. Not that I recall. There may have





1        been a request; I wouldn't state that definitely, Mr.  
2        Jacques.

3                    Q.    One last question:    This procedure  
4        which dates back to 1961 -- can you tell us why it  
5        wasn't made known to the shipowners and shipmasters  
6        and pilots?

7                    A.    I never thought of it.    There  
8        is nothing secret about it.    This was just an arrange-  
9        ment between the two governments.

10                   Q.    Yes; but quite important to each  
11        and every member of the pilotage districts of the  
12        Great Lakes?

13                   A.    Not necessarily; because it  
14        changed nothing in the law.    On the other side they  
15        follow their law and we follow ours.    This arrangement  
16        is merely that a representative of the other country  
17        will be invited to attend and that copies of the  
18        proceedings will be handed over.

19                   Q.    Question No. 13:    Why was the  
20        despatching responsibility for the eastern end of  
21        district No. 1 entrusted to the United States authority,  
22        whilst the Canadians had all the necessary installation  
23        in Kingston?

24                   A.    Well, the arrangement was that  
25        in each of the two main districts -- that is, district  
26        1 and district 2 -- the Canadians would operate  
27        despatching facilities at one end and the Americans  
28        at the other end.

29                   Now, we already had a despatching office  
30        at Cornwall which would have to be continued because it







1 was also despatching the Cornwall pilots. So that  
2 was one reason why obviously the Americans should  
3 take over the western end.

4 But in addition to that the main channel  
5 for the ocean ships -- in fact, the only possible  
6 channel for many of the ocean ships -- was south  
7 of Wolf Island which is in United States waters.

8  
9 CROSS-EXAMINATION BY MR. BRISSET:  
10

11 Q. Captain, has the pilotage authority  
12 in Canada made any representations to the United  
13 States authorities to have the pilot boat in use at  
14 Cape Vincent disposed of, as I am advised that it is  
15 a white elephant?

16 A. You mean to be disposed of without  
17 being replaced?

18 Q. Well, in order to find a more  
19 economical way of rendering the service required?

20 A. We have not made representations  
21 in those terms, I am quite sure. We have questioned  
22 the expense of this pilot boat, or these pilot  
23 despatching facilities which include the pilot boat  
24 service.

25 Q. Well, just how far have you gone  
26 in questioning the use of this particular boat?

27 A. I don't think we have questioned  
28 any particular boat in that sense. The expenditures  
29 in general for the despatching service there we  
30 thought had been quite high; but we have put this to





1 the administrator and he is the responsible party --  
2 the authority on that side -- and he doesn't agree  
3 with us.

4 Q. Has the Department suggested, for  
5 instance, that pilot boat services could be carried  
6 out at much cheaper cost than with the use of the  
7 pilot boat now in use at Cape Vincent?

8 A. I don't know that we have actually  
9 suggested it, but in any case I think the answer  
10 would be -- that the Department would give -- is that  
11 their law provides that they must authorize a pool  
12 to operate a despatching service, and that that is  
13 done, and that while the administrator does have  
14 some influence there apparently his influence is limited.

15 Q. In other words, even although you  
16 could demonstrate -- although I assume that you have  
17 not -- that the service could be much cheaper than it is  
18 at present you don't think that the American admin-  
19 istrator would interfere with the present arrangement?

20 A. Well, the American administrator  
21 does keep a close watch on these matters and I am sure if  
22 he felt some improvement <sup>could</sup> be brought about he would do it.

23 MR. LALONDE: I am sorry to jump about  
24 through the districts, but in view of your answer  
25 that there was to be a Canadian end and an American  
26 end to the districts, why was not the same procedure  
27 followed in the Soo where I understand we have two  
28 American pilot boats operating?

29 THE WITNESS: Yes; the fact was that  
30 at the Soo it was an established American service and





1 we allowed it to continue since we only had a small  
2 participation of Canadian pilots in that. But that  
3 doesn't mean that this situation will continue in-  
4 definitely.

5 MR. LALONDE: But you also had in  
6 Kingston an existing service, did you not?

7 THE WITNESS: Yes; but the reasons  
8 which I gave there were quite pertinent, I think.

9 MR. JACQUES: Q. The next question  
10 is in connection with the pilot boat service provided  
11 for the American pilots at Cape Vincent. Explain the  
12 stand taken by the Department in connection with the  
13 service and the cost which has been passed on to  
14 Canadians.

15 It appears from Exhibit 851, which is  
16 a letter addressed by Mr. Booth to Mr. Lalonde, dated  
17 June 6th 1962, that the Department had precious little  
18 choice -- that, in fact, there was imposed a solution  
19 by the Americans without any negotiations?

20 A. This is in connection with what,  
21 Mr. Jacques?

22 Q. In connection with question No. 14?

23 A. Yes, this is correct.

24 Q. So the government of Canada was  
25 told by the American pilots that the pilot boat was  
26 going to cost so much, and that is it?

27 A. The objections were considered by  
28 the United States administrator and he felt the charges  
29 were reasonable. Our legal advice was that we  
30 couldn't really take any further action in it.







1 Q. What is the meaning, then, which  
2 the government of Canada, or the Department of Transport,  
3 places on the memorandum of arrangement, paragraph 3  
4 (g) with respect to "...the cost as prescribed  
5 by the Minister and the Secretary"?

6 A. Perhaps the word "prescribed" is  
7 not quite the right word, but it is taken to mean that  
8 the Secretary on the American side and the Minister on  
9 the Canadian side can approve or can object or can have  
10 some influence on the costs.

11 Q. Would you say that again?

12 A. It means that the Secretary on  
13 the American side and the Minister on the Canadian  
14 side can approve or can have some influence on the  
15 costs of the pilot boat operation.

16 Q. But it is a rather strange meaning  
17 to give to the word "prescribe," is it not?

18 A. Well, as I say, perhaps "prescribe"  
19 is not the right word.

20 Q. I didn't choose the word. I am  
21 reading from the memorandum.

22 A. Well, I don't think it was ever  
23 intended that the Minister would prescribe certain  
24 costs. Here, again, we are trying to give a meaning  
25 to a word they put into the memorandum of arrangements.

26 Q. I quote again from Mr. Booth's  
27 letter to Mr. Lalonde, of July 6th, with respect to  
28 pilot boats:

29 "The position of the United States  
30 pilot group at Cape Vincent is fortified by





1 the fact that their responsibility for  
2 providing the pilot boat is embodied in  
3 the United States Regulations, and that  
4 apparently the contract in respect of their  
5 pilot boat has been approved by Meschter..."

6 Nobody can complain about it, and Meschner approved the  
7 contract for the pilot boat?

8 A. This is correct; and we did object  
9 to the way in which this was done.

10 -

11 -

12 -

13 -





1 CROSS-EXAMINATION BY MR. BRISSET:

2 Q. Well, we have this situation, that the  
3 Administrator considers that the cost of the pilot boat  
4 service in Cape Vincent is reasonable, while the Minister  
5 of Transport considers that it is not. What happens?

6 A. Well, I would say I'd have to take  
7 the considered opinion of the Administrator for some-  
8 thing that is happening on his side of the border and  
9 under his conditions of employment and under normal  
10 charges on that side. All we could do would be to  
11 protest.

12 Q. Without success?

13 A. In this case, yes.

14 COMMISSIONER RENWICK: As I recall  
15 it, my lord, that pilot boat is owned by pilots as a  
16 separate corporation; not Cape Vincent.

17 THE WITNESS: I believe some of them  
18 have.

19 MR. LALONDE: Some pilots have a  
20 separate corporation.

21 THE CHAIRMAN: Next question? Mr.  
22 Lalonde?

23  
24 CROSS-EXAMINATION BY MR. LALONDE:

25 Q. Now, captain, I would have thought  
26 that the information given by the department on Section  
27 3(g) of the arrangement was to the effect that the  
28 cost to be charged in connection with the operation of  
29 the pools would be as prescribed by the minister and  
30 the secretary as it is written, and that would have







1 that you would have~~had~~ needed the concurrence of  
2 both as to cost.

3 Is it a fact then that the interpre-  
4 tation given by the department is that each in his  
5 sphere is entitled to set up costs on each side of  
6 the border and that was the end of it, except for  
7 certain right of protest?

8 MR. MACGILLIVRAY: I think this  
9 involves a legal opinion given to Captain Slocombe. I  
10 would be prepared to speak on it if you wish.

11 MR. LALONDE: Yes.

12 MR. JACQUES: Please do.

13 MR. MACGILLIVRAY: The fact is as  
14 is the case in so many international agreements, it is  
15 sometimes difficult afterwards to know precisely what  
16 was meant by the parties. But certainly the inten-  
17 tion, as we understood it, as we take it from this,  
18 and knowing something of the previous workings, the  
19 previous discussions and also of the general inter-  
20 national practice, when there is an agreement between  
21 two countries to give effect in their law to the  
22 agreement, the fact is that one country must rely on  
23 the other country to give effect to the provisions in  
24 good faith.

25 The understanding we have had quite  
26 clearly here is that this means the minister and the  
27 secretary in their respective countries. Therefore  
28 the minister is the one who will approve what costs  
29 are to be charged in Canada and the secretary is the  
30 one who will approve the costs that are to be charged





1 in the United States. There is really no other way  
2 you can do it. You couldn't by agreement agree that  
3 the minister and secretary were going to have to agree  
4 later to what was reasonable.

5 MR. JACQUES: By the way, this is  
6 the cost charged in connection with the operation of  
7 pools? It has nothing to do with charges made to  
8 shipping?

9 MR. MACGILLIVRAY: That is correct.

10  
11 DIRECT EXAMINATION BY MR. JACQUES:

12 Q. Question No. 15, explain procedure  
13 available to the Department of Transport to check  
14 accuracy of information supplied by Cape Vincent  
15 pilots with respect to financial statements.

16 A. This has to do with the audit, Mr.  
17 Jacques, and we will have one at least of the auditors  
18 here at 2.30 this afternoon if you wouldn't mind post-  
19 poning that question until then.

20 MR. JACQUES: Agreed.

21 THE CHAIRMAN: He is going to be here  
22 to answer Mr. Lalonde's questions.

23 MR. JACQUES: Yes, my lord, and for  
24 any other questions.

25 Q. Question 16, was billing held back  
26 for a period of about fourteen days pending the coming  
27 into force of a change in the regulations at the begin-  
28 ning of the 1963 season? I think the answer is Yes,  
29 and it has been given yesterday.

30 A. Yes.





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Mr. LALONDE: Am I to understand the Department this afternoon will bring forward copy of the auditor's report for District 1, too, because we have audit reports for District 3 and - - -

THE CHAIRMAN: The question you asked was regarding 2 and 3?

MR. LALONDE: Yes.

THE CHAIRMAN: Would you like to have more than that?

MR. LALONDE: I would like him to file a copy of audit report for District 1. Just ask him anyway.

THE CHAIRMAN: Can you furnish that?

MR. JACQUES: I thought these were filed already. We will check on that, and if they haven't been filed we will see that they are.

THE CHAIRMAN: So Mr. Morissette will check on that right now because if the auditor is going to be questioned on that, it should be done right away. Mr. Morissette will check on whether we have them or not.

MR. JACQUES:

Q. The answer to Question 16 I believe was yes?

A. Yes. This is not exactly a change in the regulations; this was administrative change, amendment in the memorandum of arrangements as to the billing.

CROSS-EXAMINATION BY MR. LALONDE:

Q. Certainly it implies a change, some







1 how a change in the tariff, since the same ship would  
2 pay, say, two hundred U.S. dollars for a pilotage  
3 service and pay 185 or 215 Canadian dollars for the  
4 same service if American or 185 U.S. dollars if it  
5 is done by Canadian pilots.

6 A. This was an administrative change,  
7 not a regulation change. It was a change in the  
8 memorandum of arrangements that billing would be done  
9 under a different basis. It was changed -- to be  
10 changed to the Canadian pilots' work being billed for  
11 in Canadian funds and U. S. pilots' being billed in  
12 American funds.

13 Q. Yes?

14 A. As a change from the previous system  
15 whereby the billing was done in the currency of the  
16 pool which issued the bill.

17 Q. Yes. Nevertheless the billing which  
18 was carried out under the new practice referred at  
19 least for fourteen days to services performed under the  
20 old memorandum of agreements?

21 A. Yes, just exactly the same as is  
22 often done at the beginning of a season pending the  
23 passage of an order-in-council for the pilots' benefit.

24 Q. Yes, except that this time it might  
25 be argued to whose benefit it was. So you would agree  
26 that this is another instance of a nice technical  
27 illegality, I suppose?

28 A. Questionable practice, Mr. Lalonde.

29

30





1 DIRECT EXAMINATION BY MR. JACQUES:

2 Q. Question No. 17, why are District 1  
3 expenses paid out of pilotage revenue while similar  
4 expenses in districts east of District 1 are paid by  
5 the Crown?

6 A. The reason was that the Great Lakes  
7 pilotage arrangements were intended to be self-supporting.

8 Q. Question 18, what was the position  
9 taken by the department with respect to the use of the  
10 channel north of Wolfe Island, and were there any  
11 difficulties encountered with the U. S. with respect  
12 to the use of that channel?

13 A. This may be quite a long explanation,  
14 and it is necessary to have the details in order to  
15 understand the situation.

16 Wolfe Island is about 18 miles long,  
17 and divides the St. Lawrence River into a north channel  
18 and a south channel. The north channel is in Canadian  
19 waters and has the city of Kingston on the north shore.  
20 The international boundary runs along the south  
21 channel close to the shore of Wolfe Island, so while  
22 the island itself is Canadian, a ship navigating the  
23 south channel is for practically the whole time in  
24 U. S. waters.

25 THE CHAIRMAN: We have seen this,  
26 where the wharf is in American waters. We have seen  
27 the boundary mark there indicating the boundary on  
28 Wolfe Island.

29 THE WITNESS: It is very close to  
30 the shore, my lord. Now, in order for an upbound ship





1 to go to Kingston, she must leave the main ship channel  
2 at the east end of Wolfe Island, at Quebec Head and  
3 pass through the narrow connecting channel to the north  
4 channel. This connecting channel called Wolfe Island  
5 Cut is now dredged to 23 feet. Before 1962 the  
6 depth was only 16 feet, and the width was only 300 feet.

7 I may say that I recall that in 1930  
8 in my first season on the lakes it was impressed on me  
9 that this was one of the danger points of the channel  
10 on the Great Lakes. With a strong easterly or westerly  
11 wind blowing across the Cut it took considerable skill  
12 to get the ship through, particularly at night.

13 Now, at that time the present Welland  
14 Canal had not been opened and Lake Ontario had never  
15 seen a ship longer than 250 feet. The limiting draught  
16 in the canals was 14 feet, so all the ships were  
17 capable of passing through Wolfe Island Cut. However,  
18 only those ships that employed pilots who wished to  
19 disembark at Kingston did so.

20 Now, when the Seaway opened to larger  
21 ships, opened the lakes to larger ships, the ships with  
22 their deeper draught couldn't go through Wolfe Island  
23 Cut, and the pilots were landed at Alexandria Point  
24 on the south side of Wolfe Island. As I said before,  
25 the ships which employed pilots before that who wished  
26 to disembark at Kingston did use the north channel,  
27 but many of the ships such as the ships of the Keystone  
28 Transportation on which I happened to serve in 1930,  
29 and many other lines, lakers, which did not employ  
30 pilots, they usually used the south channel.







1 Well, the Cut was dredged to 23 feet in  
2 1961, so in 1962 some ships could go through. However,  
3 by this time the agreement with the Americans was in  
4 effect providing for despatching and pilot boat facilities  
5 to be handled by the U. S. pilots at Cape Vincent.  
6 Then if a Canadian pilot took a ship via the north  
7 channel so that he might disembark at Kingston, this  
8 meant complications because the next pilot on turn  
9 might be an American who would have to make his way to  
10 Kingston to join the ship for the continuance of the  
11 voyage.

12 Further, this upset the calculations  
13 connected with the pilot boat operations at Cape  
14 Vincent. The boat charge being based on the premise  
15 that every ship employing a pilot would require the  
16 boat. The dispute that developed involved not only  
17 the passage via north channel but also the use by the  
18 Canadian pilots of their own boat facility operated  
19 by Mr. Dougan, who gave evidence, to land them on  
20 Wolfe Island.

21 The U. S. pilots insisted, and in  
22 this they were supported by their Administration, that  
23 legally they were entitled to the monopoly as far as  
24 pilot boat services were concerned, and the U. S. group  
25 proceeded to include in the operating expense a boat  
26 charge for every ship whether or not the American boat  
27 was used. This action was objected to by the  
28 Canadian pilots who were already paying Mr. Dougan  
29 for the use of his boat.

30 The department supported the case of





1 the Canadian pilots as far as legally possible, but the  
2 advice was that the case was not strong. Eventually a  
3 compromise was reached between the two groups, and  
4 we feel that the matter is now resolved.

5 It was necessary for the sake of  
6 orderly despatching to insist that all ships proceed  
7 via the established pilot station which was at Cape  
8 Vincent unless they were bound to or from Kingston.

9 This ruling represented an inconven-  
10 ience to those Canadian pilots who lived in Kingston or  
11 who wished to spend their time there between ships, but  
12 we do not agree to the claims of detrimental effect on  
13 the Port of Kingston.

14 There has been some talk in evidence  
15 about having to send to Cape Vincent for an American  
16 pilot when a ship had to be moved in Kingston. Now,  
17 it is correct that application for a pilot must be  
18 made to Cape Vincent, but the pilot obtained would be  
19 the next on turn, whether American or Canadian. It  
20 is quite possible that if an American pilot appeared  
21 he might not be as familiar with the harbour as some  
22 Canadian pilots, but this might also happen in reverse;  
23 in the case of a Canadian pilot sent to do a job in  
24 an American harbour, which is a much more frequent  
25 occurrence.

26 As to any effect on the harbour of  
27 Kingston, as already stated, any ship bound to or from  
28 Kingston must use the north channel. If she is upbound  
29 and is able to go through the Wolfe Island Cut, she  
30 will do so. If she is too deep for the Cut she has





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1 to go along the south channel, out into Lake Ontario  
2 and approach Kingston from the west.  
3  
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1 This involves extra charges because the ship has to  
2 go out into undesignated waters and make a fresh entry  
3 into District No. 1. Similarly if a ship has been  
4 moored at the elevator at the west end of the harbour  
5 and has to go out into Lake Ontario she must employ a  
6 registered pilot for about two miles of designated  
7 waters, for which the charge is the minimum of \$50.

8 The Kingston City authorities com-  
9 plained about this, as we have heard in evidence, and  
10 suggested the limits of the designated waters be moved  
11 to exclude Kingston harbour. We consulted the  
12 pilots' committee of the Kingston Pilotage District on  
13 the matter and they reacted as expected with a strong  
14 objection to anything being cut off their district.  
15 We also sounded out the U. S. Pilotage Administration  
16 and met strong opposition to any change in the limits  
17 of designated waters on the grounds that if a change  
18 were made in favour of Kingston there would no doubt  
19 be pressure from Toledo and Sandusky, for instance,  
20 for similar treatment, they being similarly situated.

21 Admittedly the extra charge of \$100  
22 for pilotage from Cape Vincent to Kingston may be out  
23 of line, but this is the kind of anomaly which is  
24 inevitable as long as the present system exists under  
25 the Canada Shipping Act.

26 There was one witness who claimed  
27 that the ships should be taken through the north channel  
28 to advertise the City of Kingston. I do not think I  
29 need comment on this. No ships employing pilots  
30 had gone to Kingston in 1964 up until the middle of





1 July. I do not know whether there have been any since.

2 MR. JACQUES: Thank you.

3  
4 CROSS-EXAMINATION BY MR. LALONDE:

5 Q. You referred indirectly to pilot boat  
6 problems and I would like to come back to this question.  
7 You know that at the other end of the district, at the  
8 Cornwall end of the district, there is a taxi service  
9 being provided from the pilotage station to Snell Lock?

10 A. Yes.

11 Q. You are aware of that?

12 A. Yes.

13 Q. You are also aware that this service  
14 is necessary; it is quite obviously necessary to have  
15 that service for the pilots?

16 A. Some transportation is necessary.

17 Q. Are you aware that that charge is borne  
18 exclusively by Canadian pilots under your auditing  
19 system?

20 A. Yes, we are aware of this.

21 Q. That no charges are made to the  
22 American pilots for that service as a pool operation?

23 A. The reason given is that only the  
24 Canadians use it.

25 Q. Of course, but this is a service from  
26 the pilotage station to Snell Lock. Have you ever  
27 considered the possibility in view of the attitude of  
28 the American authorities concerning the pilot boat  
29 operation at Cape Vincent, to put in as a pool charge  
30 the taxi service between Cornwall and Snell Lock?





1 A. I think they might claim, Mr. Lalonde,  
2 that the Canadian pilots should live over on the American  
3 side at Snell.

4 Q. And you would agree to such an argu-  
5 ment? You would once more bend down?

6 A. It would be difficult to argue with  
7 this, I think. This charge does come out of the dues;  
8 it is paid for by the ships.

9 Q. Yes, it comes out of the dues but it  
10 is taken out only in the Canadian share of earnings, not  
11 as a pool expense. I submit to you that since it is  
12 a trip from the pilotage station -- not from the home  
13 of the pilot, from the pilotage station to Snell Lock,  
14 which is the embarking point -- there is a very strong  
15 argument in support of the view that this should be  
16 considered as a pool expense whether American pilots  
17 only or Canadian pilots only take it. It is an  
18 essential service for the operation of pilotage in  
19 the area.

20 THE CHAIRMAN: There is the argument  
21 to be followed also that all pilots whether American or  
22 not pass by that station once in a while.

23 MR. LALONDE: Yes, indeed.

24 THE CHAIRMAN: This is their base  
25 where notices to mariners are posted and informations  
26 are to be obtained.

27 MR. LALONDE: I was going to raise  
28 this point, my lord. And it may occur once in a while  
29 that an American pilot may be at Cornwall having taken  
30 a train from Kingston down, or something of this sort.







1 MR. JACQUES: They should all live  
2 in Cornwall.

3 THE CHAIRMAN: Or on the other side.

4 THE WITNESS: This is a very com-  
5 plicated matter. But, Mr. Lalonde, if you wish to  
6 make representations on this on behalf of the Kingston  
7 pilots . . .

8 MR. LALONDE: Well, if you look  
9 at Exhibit 850 I have <sup>made</sup> /o representations in that respect  
10 for the last two years.

11 A. It is brought to my attention that  
12 the American pilots on the other side have to pay their  
13 way from Massena to Snell.

14 Q. Yes, but there is no despatching  
15 station at Massena.

16 A. This is the closest place where they  
17 can live.

18 Q. Yes, but this is not a despatching  
19 station.

20 A. This is not something that we can  
21 argue here, Mr. Lalonde.

22 Q. We can start off again in other  
23 places. I am sorry, it does not seem to be in  
24 Exhibit 850. I cannot find the letter now. But you  
25 have correspondence to that effect in your files, I am  
26 sure. It was raised verbally also on many occasions  
27 with Mr. Booth in particular.

28 A. You might reinstitute it.

29

30





1 DIRECT EXAMINATION BY MR. JACQUES:

2 Q. Question No. 19 -- Are lake ships  
3 of Commonwealth registry now being granted waivers and,  
4 if so, what is the actual practice followed in Canada  
5 and the United States?

6 A. The legislation on both sides provides  
7 that any ship may proceed without a registered pilot if  
8 her master is informed that no registered pilot is  
9 available. On our side we are interpreting this as  
10 written. If we have no pilot available we inform  
11 the master accordingly and in the case of lakera that  
12 are subject to the requirements only by virtue of the  
13 flag at the stern and which have experienced lake  
14 masters and crews, they sometimes proceed as long as  
15 they are not going into the U. S. waters.

16 Q. You let them through? You do not  
17 grant them a waiver?

18 A. Unless we conveniently have a pilot  
19 available, yes. However, if they are going into U. S.  
20 waters they must follow a procedure which was described  
21 roughly here a few days ago by the American pilot.

22 Q. And which is now in the form of a  
23 rule or regulation?

24 A. You are asking a question?

25 MR. JACQUES: No. This has now  
26 been adopted as Great Lakes Regulations, Rules and  
27 Orders.

28 CROSS-EXAMINATION BY MR. BRISSET:

29 Q. Captain, speaking as a seaman would  
30 you agree that pilotage is not required on these ships





1 when manned by competent Canadian ship masters and  
2 crews?

3 A. Yes.

4 Q. Now speaking as a departmental officer  
5 would you agree with the concept that this is more a  
6 form of taxation on the vessels than to force them to  
7 take pilots in the Great Lakes Basin?

8 A. Yes, I might agree to that.

9 Q. On this basis would you also agree  
10 that the tax is discriminatory and therefore uncon-  
11 stitutional and that the companies involved would  
12 have the right to claim what they have paid by way of  
13 dues to the Canadian government?

14 A. No, I could not agree to that.

15 CROSS-EXAMINATION BY MR. LALONDE:

16 Q. How many waivers were granted  
17 in District 1 this year? Do you have that information?

18 A. No, I have not that information.

19 Q. Or for the last five years?

20 A. As far as we know there have not been  
21 any in District 1 because there have always been  
22 pilots available.

23 Q. Yes. You state that these ships  
24 will be left on their own if you have no pilots avail-  
25 able. Do you know how many waivers have been granted  
26 in District 2 this year or how many transits without  
27 pilots of these ships have taken place?

28 A. I am told that it is approximately  
29 eighty a month.  
30







1 Q. You mean to say that in all these  
2 instances it is because you had no pilot available?

3 A. Yes, unless it might have been that  
4 it was known that a pilot was going to be needed,  
5 going to be required on an incoming ship which would  
6 need a pilot. Obviously if any ship was allowed to  
7 proceed without a pilot when there was one actually  
8 available at the time it was in view of using the  
9 pilotage staff to the best purposes.

10 Q. Do you know whether these lake ships  
11 in all instances in District 2 have called first for  
12 pilots before being let through?

13 A. I do not know this. This would be  
14 the local supervisor.

15 Q. I submit to you that on many occasions  
16 these ships do not even bother to call -- and you might  
17 check this with your supervisor this afternoon or at  
18 the luncheon adjournment -- and that in all these  
19 instances these ships would be breaking the law with  
20 your knowledge.

21  
22 DIRECT EXAMINATION BY MR. JACQUES:

23 Q. With respect to the same problem has  
24 the department given any instructions to its local  
25 supervisors or despatchers in that respect?

26 A. We have certainly told him that he  
27 should use his discretion.

28 Q. It is not in writing?

29 A. No, not in writing.

30 Q. And the instructions were to use his  
discretion?





1           A.     In the sense that we would not wish a  
2 ship that needed a pilot to be stopped for the sake  
3 of supplying a pilot to a ship that did not want it  
4 and did not require it.

5           Q.     Is there a set procedure for a ship  
6 to obtain a waiver?   Is that defined anywhere?

7           A.     She is supposed to call for a pilot  
8 and if they are told that a pilot is not available then,  
9 as we read it, the ship may proceed if the master feels  
10 he is competent to do it.

11          Q.     Is it then a fact that the practice  
12 has been not to bother with these ships?

13          A.     No, not a practice.

14          Q.     Not a practice?

15          A.     No.

16          Q.     But if they just went through nobody  
17 would complain about the matter?

18          A.     Not from departmental instructions.  
19 If a pilot is available they are supposed to have one.

20          Q.     But again that is not in writing?

21          A.     No.

22          Q.     Those are verbal instructions?

23          A.     Yes.

24               MR. MACGILLIVRAY:   It is the law.

25               THE WITNESS:   We appreciate that.  
26 This is the law -- that if a ship calls for a pilot  
27 she must be given one.

28               MR. JACQUES:   I realize it is in the  
29 law.   The law also says this:

30               "The Minister may upon such





1 terms and conditions as he deems  
2 advisable exempt any owner or master  
3 from the requirements of subsection (1)."

4 I am reading subsection (2) of 375(b). Subsection (1)  
5 is the requirement to have a registered pilot on board.  
6 I thought that in view of the law, which is not com-  
7 plete unto itself and which requires the Minister to  
8 state the terms and conditions on which a ship may  
9 proceed without a pilot, there might be something in  
10 writing.

11 CAPTAIN SEELEY: If you read further,  
12 Mr. Jacques . . .

13 MR. JACQUES: Because these are  
14 not ships registered in Canada. We are talking about  
15 Commonwealth registered ships.

16 MR. MACGILLIVRAY: Yes, but surely  
17 what Captain Slocombe has been talking about is  
18 paragraph (a) of subsection (4). Captain Slocombe  
19 has not really been talking about exempted ships. He  
20 has been talking about ships going when no pilot is  
21 available in the light of paragraph (a), subsection  
22 (4).

23 MR. JACQUES:

24 Q. But again, just to sum up, there is  
25 nothing in writing. The despatcher is told to use his  
26 discretion and not to deprive a ship which really  
27 needs a pilot for the sake of placing that pilot on  
28 board a Commonwealth registry ship where the master will  
29 be fully competent, apart from registration, to handle  
30 his own ship?







1 A. There have been representations  
2 made from the shipping people on this very point  
3 objecting to the misuse of the pilot force, as has  
4 been said; and while expressing that these ships are  
5 not exempt we have tried to keep the ships moving.

6 Q. But what I have said sums up the  
7 position of the Department?

8 A. That...?

9 Q. What I have just said sums up the  
10 position of the Department?

11 A. What was it you said?

12 Q. That the verbal instructions to  
13 despatchers are not to deprive a ship which really  
14 needs a pilot just for the sake of placing on board  
15 a commonwealth registry ship a pilot in order to abide by  
16 the law, while the master would be fully competent  
17 to handle his own?

18 A. This is correct except that it  
19 is not the despatchers who have been given this  
20 authority; it is the supervisor.

21 Q. The supervisor has the authority?

22 A Yes.

23 Q. And this happens 85 times a month  
24 in district 2?

25 A. I am saying about 80 times.

26 Q. 80 times a month?

27 A. These ships are going back and  
28 forth in the canal all the time, and since we were not  
29 able to get more registered pilots something had to  
30 be done to try to keep the ships moving.





CROSS-EXAMINATION BY MR. LALONDE:

Q. Isn't it the fact that the pilots are to be despatched on a tour de roll basis in this district, both by the United States and Canadian authorities? That is what the supervisor is supposed to apply?

A. The tour de roll?

Q. Yes.

Q. This is it; they are despatched in turn.

Q. And isn't it a fact that all ships are equal before the law?

A. This is correct.

Q. And now you are telling me that the supervisor is the one to give the authorization to break the law in each instance, not the despatcher?

A. We don't have direct contact with the despatchers. We instruct the supervisor.

Q. You have just said that it was the supervisor who had the authority and not the despatcher?

A. Yes.

Q. I submit that the despatcher is involved in each of the 80 instances referred to, and I challenge you to check with your supervisors and find out in each of these instances who has given the authorization?

A. Possibly he has not; and I can quite see how this might work out if there are ships going





1 through all the time with the same personnel.

2 Q. Yes, of course; and what you refer  
3 to as 80 instances a month -- are these 80 times when  
4 permission was requested, or 80 times when a ship went  
5 into the district without a pilot, of commonwealth  
6 registration?

7 A. I am told that this figure of 80  
8 times a month includes all the waivers, as they call  
9 them, in the district, which might include not only  
10 the Welland Canal but the Detroit River.

11 MR. MACGILLIVRAY: I think the witness  
12 should not use the term "waivers" when talking about  
13 this, because the waiver is what is dealt with in  
14 sub-section 2.

15 THE CHAIRMAN: I understand that the  
16 waiver procedure is not bothered with when the ship  
17 is not going to be in American waters; but there would  
18 be cases where it would ordinarily be covered by  
19 waivers.

20 MR. MACGILLIVRAY: We seem to be  
21 getting into a confusion of terms here.

22 THE WITNESS: I don't like the word  
23 myself. That is why I said the so-called waivers.

24 MR. MACGILLIVRAY: Surely we are  
25 talking about two different provisions. Sub-section  
26 1 of section 375(b) is not a waiver; it is an exemption;  
27 and this seems to contemplate the case where a named  
28 ship, or a named owner or master, rather, is exempted  
29 from all the requirements of sub-section (1); whereas  
30 sub-section 4 of this section simply provides -- and







1 this is neither a waiver nor an exemption -- it simply  
2 provides that if a pilot is not available and the  
3 master of the ship is so informed then the ship is  
4 not bound by sub-section (1). There is no waiver;  
5 there is no exemption; it is merely relying on the  
6 fact that a pilot is not available.

7 AS I understand what the witness said --  
8 and I am not too clear on that -- if a vessel of  
9 commonwealth registry comes to a place in the district  
10 where it is required, under sub-section (1), to take  
11 a pilot and there is a pilot available for that vessel,  
12 but, at the same time, the supervisor knows, or the  
13 despatcher knows, that within a very short time there  
14 will be another deep sea vessel which will actually  
15 need a pilot, he will stretch the law rather than  
16 break it.

17 MR. LALONDE: Stretching until it  
18 breaks.

19 MR. MACGILLIVRAY: Well, in any event,  
20 in order to keep the ships moving instead of placing  
21 a pilot on a commonwealth ship he will look the other  
22 way and save this pilot for the ocean-going vessel  
23 that needs a pilot. I believe that is what the  
24 witness has stated.

25 THE WITNESS: This is correct; and  
26 may I remind the Court that, while Mr. Lalonde's  
27 concern for the law is quite touching, this does not  
28 affect the Canadian pilots who are on salary and are  
29 paid whether they are piloting or not.

30 MR. LALONDE: I wasn't talking about





1 money; I was talking about the law.

2 Secondly, I am also informed that some  
3 of the pilots phoned the office saying they were  
4 available and willing to take out a ship, but they  
5 were not despatched.

6 MR. MACGILLIVRAY: Is that in evidence?

7 MR. LALONDE: No; they just won't pay  
8 the fee for getting the pilot from Port Weller...

9 MR. BRISSET: That is understandable.  
10 By going on the lake vessel they have nothing to do  
11 while going on the ocean ship they would have to pilot.

12 MR. LALONDE: Is that in evidence?

13 MR. JACQUES: Anyway, there is nothing  
14 in the law which prevents a despatcher or supervisor  
15 from reserving, for a deep sea ship, perhaps, the only  
16 pilot who is available.

17 The word "available" in the Act might  
18 refer to "available for that particular ship."  
19 It does not mean to say that there are pilots in the  
20 area who are doing nothing.

21 THE CHAIRMAN: We understand.

22 BY MR. JACQUES: Q. I would refer you to sub-section  
23 2 of 375b. Would you read that sub-section?

24 A. "The Minister may, upon such  
25 terms and conditions as he deems advisable,  
26 exempt any owner or master from the re-  
27 quirements of sub-section (1)."

28 Q. Has that sub-section ever been used?

29 A. No, it has not.  
30





1 Q. I realize my next question is one  
2 of legal interpretation, but why sub-section 2 and  
3 also sub-section 4? They seem to serve roughly the  
4 same purpose?

5 A. No, this is not the same purpose,  
6 as I think Mr. Macgillivray explained. Sub-section  
7 (2) is a permanent exemption of a class of ship.  
8 Other than these ships, therefore, the section does not  
9 apply.

10 Q. Could you not, then, under sub-  
11 section (2) exempt all commonwealth registry ships?

12 A. This could be done.

13 Q. It could be done?

14 A. But the Minister has not seen fit  
15 to do so.

16 MR. JACQUES: Thank you.

17 MR. BRISSET: I have one question  
18 which is not included in the list of questions, My Lord,  
19 which I would like to ask.

20 Captain, would the Department, through  
21 its Cornwall office, be willing to take over, on  
22 behalf of the American pool, the billing, collecting  
23 and accounting of the operations which are now  
24 conducted in Massena?

25 A. Yes, the Department would be  
26 prepared to do this.

27 Q. Would the Department consider that  
28 the cost of such an operation, if conducted at its  
29 Cornwall office, would be much less than it is at  
30 present?







1 A. We think so.

2 MR. JACQUES: Q. Have you ever had  
3 a request for exemption under sub-section 2 of 375(b)?

4 A. I said that there were no exemptions.  
5 There has been one formal exemption under this sub-  
6 section in the case of public vessels of the United  
7 States of American; public vessels being warships and  
8 government ships of the United States of America.  
9 But otherwise I can't recall -- oh, yes, of course,  
10 we have had requests for these ships to be exempted.

11 Q. Which ships are these?

12 A. These commonwealth flag lakers.  
13 The owners of these ships have, of course, made  
14 representations objecting to the requirement for the  
15 employment of registered pilots.

16 Q. And why weren't they granted their  
17 request?

18 A. This is a ministerial decision  
19 which I can't explain.

20 Q. But they made requests for exemption  
21 and it was turned down?

22 A. Correct.

23 Q. Could you give us more details  
24 about that? When were these requests made and by whom  
25 and how many have you had so far?

26 A. This would mean searching back through  
27 the files.

28 Q. I am not asking for it right away?

29 A. We could provide this for the  
30 Commission, certainly.





1 MR. LALONDE: I understand that the  
2 Minister's decision was to turn down the request.  
3 Were there instructions sent to you to circumvent the  
4 law, nevertheless?

5 THE WITNESS: No, there were not.

6 MR. LALONDE: So one branch of the  
7 Department decided they would do it that way while  
8 the higher branch decided otherwise?

9 THE WITNESS: The branch that has  
10 the responsibility of keeping the ships moving took  
11 this course; and I may say that this is another case  
12 of steering between Charybdis and Scylla.

13 MR. LALONDE: Which of the two is  
14 the Minister?

15 THE WITNESS: That is not the Charybdis  
16 or Scylla that I meant. This is between the operators  
17 of the ships and the pilots.

18 MR. JACQUES: Before proceeding with  
19 the questions on district No. 2 I should like to file  
20 as Exhibit 1407 a brief sent to the Commission by a  
21 group of American pilots of district No. 2, dated at  
22 St. Catharines, Ontario, September 21, 1964, bearing  
23 the signature of 14 American pilots.

24 THE CHAIRMAN: Has it been circulated?

25 THE SECRETARY: It is presently being  
26 circulated, My Lord.

27 MR. JACQUES: The last paragraph of  
28 this brief reads as follows:

29 "We hope that this letter would  
30 be read at the final public hearings in





Ottawa, Ontario, On October 19th 1964."

Since it is being circulated I don't see the necessity to read it.

---EXHIBIT No. 1407: Brief submitted by 14 American pilots.  
BY MR. JACQUES: Q. Now, with respect to district No. 2, question No. 1, if you please?

A. Yes; it was the policy of the Department to have the new area pilots employed under the prevailing rates regulations.

Q. Districts 1, 2 and 3?

A. Yes.

Q. And in the case of district No. 1 the pilots had expressed a strong desire not to come under government employment, and the Minister decided not to press the matter. In view of the fact that there were strong objections from District No. 1 to pilots becoming employees of the Crown why did the Minister maintain the policy for the two other districts? Was that because there was no objection?

A. Because this was a new group of men.

Q. But they weren't offered the same conditions as the district 1 pilots had obtained -- that is, being private contractors?

A. No, they weren't offered that, because this was not the policy, to set up districts under Part VI above Kingston.

Q. But district No. 1 was brought under Part VI and Part VI(A) and if there is no objection to having the district No. 1 pilots as private contractors under Part VI(A) there was no legal







1 objection to having the pilots in district 2 under  
2 Part VI(A) as private contractors?

3 A. There might be no legal objection,  
4 but the ministerial decision was that there were to  
5 be no more Part VI pilotage districts formed in the  
6 Great Lakes.

7 Q. Yes; but, again, I am not talking  
8 about a pilotage district falling under Part VI.  
9 Why couldn't the pilots in district 2 be private  
10 contractors under Part VI(A)?

11 A. They could have been; but the  
12 decision was that they would be under government  
13 employment.

14 Q. Under government employment?

15 A. Yes.

16 Q. And the government did not offer  
17 to the district 2 and district 3 pilots the same  
18 conditions that the district 1 pilots had obtained  
19 after the interview of February 1961?

20 A. No; but this was not a condition  
21 which the district 1 pilots had newly obtained. They  
22 had been using the different system for many, many  
23 years, and since they expressed their strong objection  
24 to the change they were allowed to continue.

25

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1 Q. And in view of the fact that the  
2 American pilots would be private contractors, the  
3 department did not see fit to offer the same terms of  
4 employment, as it were, to the Canadian pilots?

5 A. No, I don't know that it could have  
6 been done. This is a legal question -- without making  
7 a district under Part VI.

8 CROSS-EXAMINATION BY MR. LALONDE:

9 Q. If there were strong preferences  
10 stressed by District 2 pilots for a different system,  
11 would the department react in the same way as it reacted  
12 in view of the opposition of District 1 pilots?

13 A. I am not in a position to answer that  
14 question, Mr. Lalonde. It never occurred to us before  
15 these hearings that the department was something that  
16 people had to be protected against.

17 Q. I see. It took you a long time  
18 to discover that. You stated before that one of the  
19 problems with the exemptions, number of exemptions,  
20 granted to Commonwealth registered lake ships, you  
21 couldn't obtain sufficient men. Do you remember  
22 having said that a few minutes ago?

23 A. We couldn't increase the register  
24 of pilots.

25 Q. Who objects to it?

26 A. The American pilots.

27 Q. When did you check last?

28 A. Oh, now, this is back over a consider-  
29 able time. We are speaking of now. Now there is of  
30





1 course agreement on both sides that more pilots are  
2 needed.

3 Q. I see.

4 A. And we are hoping to get them.

5 Q. Have you put in an application for  
6 more pilots in Canada?

7 A. No. There will be a competition this  
8 winter.

9 Q. I see.

10 A. To appoint more pilots.

11 Q. Do you know how many more you want to  
12 appoint?

13 A. I think the number is four at the  
14 moment.

15 Q. Four Canadians?

16 A. Four Canadians.

17 Q. And four Americans?

18 A. We would like to appoint many more,  
19 but we are not sure how many the Americans will appoint  
20 now.

21 Q. But as far as you are concerned you  
22 would like to have four more, four more Canadian pilots?

23 A. Yes.

24 Q. You would like to have four more.  
25 Permanent or casual?

26 A. This depends on whether we have  
27 positions or not in the beginning, but they certainly  
28 will become permanent no doubt.

29 Q. I suppose you mean whether Personnel  
30 and Treasury and Treasury Board and Treasury Branch and







1 your Department approve?

2 A. This is correct.

3 THE CHAIRMAN: Question No. 2?

4 DIRECT EXAMINATION BY MR. JACQUES:

5 Q. Question No.2, upon the establishment  
6 of District 2 were the former Port Weller-Sarnia pilots  
7 told that they would now be called upon to do pilotage  
8 on the open waters of Lakes Ontario, Huron and Michigan?

9 A. Well, we thought they understood this.  
10 They were examined on their experience on these lakes  
11 when they were appointed, and when I say examined on  
12 experience, I mean their experience was examined. Their  
13 records of experience, and this was a factor in the  
14 rating.

15 Q. Yes, but they were not told about that?

16 A. I am told that it was on the first  
17 identity cards that were issued that they were valid  
18 on the Great Lakes and connecting waters.

19 Q. Yes, but before they were hired they  
20 were not told that their work would not be confined to  
21 the position as advertised? We have on file and it  
22 has been filed at St. Catharines copy of a newspaper  
23 advertisement and it stated Port Weller-Sarnia?

24 A. That is correct.

25 Q. And after they had been hired, examined  
26 and what not, they found themselves obliged to ---  
27

28 A. To take a holiday on the lakes.

29 Q. --- to go all over the lakes. Well,  
30 perhaps they don't want to take a holiday. I could think





1 of several more pleasant places than spending it on  
2 the bridge of a Greek ship.

3 A. They wouldn't be on the bridge.

4 Q. I am told they are not all Greeks.  
5 Or even British.

6 A. If they were being so overworked in  
7 the district, one would think they wouldn't object to  
8 a quiet time out on the lakes for a change.

9 Q. No, but this is not the point.

10 MR. LALONDE: The witness may be  
11 facetious, but we have other evidence.

12 MR. JACQUES:

13 Q. The point is they were not told about  
14 the lake work when they were examined and when they  
15 were offered the position?

16 A. I don't know, Mr. Jacques.

17 Q. And it is not contained in any of the  
18 documents which have been filed with the Commission so  
19 far?

20 A. I don't know. I can't answer that  
21 question, but certainly we thought it was understood.

22 Q. Thank you. By the way, when was the  
23 first time that objections were raised by District 2  
24 pilots to piloting on Lakes Huron, Michigan and Ontario?  
25 Of course, I am not talking about Lake Erie.

26 A. I don't know this. You would have  
27 to ---

28 Q. You don't recall whether it was  
29 immediately after they got to work and discovered they  
30 were doing that type of work?





1 A. I am told it was the year following  
2 the first 1961 season that we learned that they didn't  
3 want to go outside.

4 Q. The first complaints you had were  
5 one year after they started working?

6 A. Yes.

7 MR. JACQUES: Thank you.

8 MR. LALONDE: But you had no report  
9 from the supervising pilot in Port Weller that he had  
10 complaints about that during 1961?

11 THE WITNESS: There may have been.

12 MR. LALONDE: But no reports came  
13 up to you?

14 THE WITNESS: We may have heard.  
15 I don't know, Mr. Lalonde.

16 THE CHAIRMAN: Mr. Brisset?

17 MR. BRISSET: I have only one remark,  
18 not a question. I am advised in 1958 pilots in  
19 District No. 2 would be sent outside from the district  
20 if the ship was going to Georgian Bay and if she was  
21 going to the Soo.

22 THE CHAIRMAN: We will now adjourn  
23 until two-thirty this afternoon.

24 ---Luncheon adjournment.  
25  
26  
27  
28  
29  
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1 ---UPON RESUMING AT 2:30 P.M.:

2  
3 MR. JACQUES: Mr. Richards, please.

4 ---

5  
6 W.N. RICHARDS, sworn

7 THE CHAIRMAN: Will you give the parti-  
8 culars of the witness?

9 MR. JACQUES: Would you state your  
10 full name, please, and what is your occupation? You  
11 may be seated if you wish.

12 THE WITNESS: Wilbert Norman Richards.  
13 I am employed with the Department of Transport,  
14 Financial Division, as an Inspector and Auditor.

15 MR. JACQUES: Thank you.

16  
17 CROSS-EXAMINATION BY MR. LALONDE:

18 Q Mr. Richards, while looking at  
19 your audit report for District No. 3, Great Lakes  
20 Pilotage, a certain number of questions arose and I  
21 would like to draw your attention first of all to your  
22 report for 1962, dated June 26, 1963, Paragraph 4.  
23 Do you have that document?

24 A Yes, I do.

25 Q Where it is stated that indi-  
26 vidual charges for pilot boats -- individual charges  
27 appear high. Moreover, it was explained that in order  
28 to obtain the equipment and services necessary to the  
29 operation, guaranteed prices were negotiated with the  
30





1 boat operators.

2 Did you inspect those pilot boats  
3 yourself?

4 A No, I didn't inspect them.

5 Q Did you check what distances they  
6 had to cover?

7 A I was informed about the distance,  
8 20 to 30 miles.

9 Q Twenty to thirty miles? On what  
10 basis did you make the statement that the individual  
11 charges appear high?

12 A This was an explanation given to  
13 me at Duluth.

14 Q That they were high?

15 A That they were high.

16 Q Or that they appeared high?

17 A Their explanation given concerned  
18 pilot boats. This was not challenged as far as I am  
19 concerned; only that they were high and they had con-  
20 tracted for this period with annual guarantees to ob-  
21 tain the necessary equipment.

22 Q Yes?

23 A The \$30 charge to me appeared high  
24 because it was high in comparison to other charges  
25 for pilot boat services.

26 Q Which other charges are you refer-  
27 ring to?

28 A I would refer to District No. 1  
29 and District No. 2.  
30





1 Q I see. Were you aware of the dist-  
2 ances and type of boats which were required in District  
3 No. 1 and District No. 2?

4 A Well, that has been explained to me,  
5 but it was just an explanation on the \$30 charge that  
6 I placed in the report.

7 Q And am I right in understanding  
8 that you do not know yourself what type of boat would  
9 be required for District 3 compared to District 2 or  
10 District 1?

11 A I would have to rely on the operation  
12 to give me that information.

13 Q You didn't have that information  
14 yourself up to the present time?

15 A That could have been explained to  
16 me at the time.

17 Q By the Administrator of the Lake  
18 Superior Pilots' Association?

19 A It would have been explained to me  
20 by the Administrator.

21 Q But you yourself were not in a  
22 position to state whether these charges were too high  
23 or too low in effect? You were just reporting what  
24 had been told to you by somebody at the office of the  
25 Lake Superior Pilots' Association?

26 A I was reporting on pilot boat ex-  
27 penses which were charged to the operation.

28 Q Now, you make a statement then  
29 later on concerning legal expenses in both areas.  
30







1 You recommended -- you took the view that these ex-  
2 penses should not be charged to the Canadian side at  
3 all. Is that correct?

4 A I made the recommendation for the  
5 1962 season. I didn't make the recommendation for the  
6 1963 season.

7 Q Excuse me.

8 A I made it for the 1962 season.

9 Q Yes, and 1963?

10 A I didn't audit the records for  
11 1963.

12 Q I can question you only on 1962  
13 then? The 1963 one is signed by Mr. Richards -- by  
14 Mr. Batten for you?

15 A Yes.

16 Q Now, you state in that document  
17 that in your opinion the administration duties per-  
18 formed by the attorneys are duplicate services since  
19 administrators were also engaged and paid for this  
20 period. Did you assess whether the services provided  
21 by Svensson and Baker Inc. were effectively used all  
22 during the year, and whether in effect there had been  
23 duplicate services?

24 A In regards to the record and the  
25 records that we work on, the records were completed  
26 for the particular year by a firm of Svensson and Baker  
27 and the administrator was appointed in February the  
28 following year, which would be in 1963.

29 Q Yes.

30





1                   A           Which the administrator's services  
2 were paid for the year 1962 to the firm of Svensson  
3 and Baker.

4                   Q           Yes. Will you please speak a little  
5 louder?

6                   A           Yes. In my opinion they were en-  
7 gaged for that particular period.

8                   Q           Yes, but there was a charge of the  
9 firm of Butchart, Fredin & Eaton for certain services  
10 they were required to provide because the administrator's  
11 services provided by Svensson & Baker Inc. were not  
12 satisfactory during the course of the year. Were you  
13 aware of that? I am referring you to Paragraphs 10  
14 and 11 on page 3 of your report?

15                  A           Well, that was the explanation given  
16 for the exceptional high charge of that year.

17                  Q           Yes?

18                  A           I feel that the payment to the ad-  
19 ministrators was sufficient for the price of the op-  
20 eration, and expenses to engage another administrator's  
21 service should have been charged to the administration  
22 that was handling the operation.

23                  Q           Did you inspect the contracts  
24 which were entered into with Svensson & Baker, Inc.?

25                  A           I asked for a copy of the contract.  
26 The explanation was that it was verbal.

27                  Q           Verbal agreement? Now, you state in  
28 that report legal representatives for Canadian pilots  
29 is a responsibility of the Department of Transport and  
30





1 not the Lake Superior Pilots' Association. Do you mean  
2 to say that if employees of the Department of Transport  
3 need legal assistance, they should be represented by  
4 the solicitors or the counsel for the Department of  
5 Transport?

6 A If it pertains to Government op-  
7 eration, not private.

8 Q But if it concerns their interest  
9 such as discussions with Government or representations  
10 to the Government and things like that?

11 A If it concerns private interest,  
12 they should pay for it.

13 Q Excuse me?

14 A If it concerns their private in-  
15 terest, they should pay for it themselves.  
16  
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1 Q And in studying the detailed ac-  
2 counts of the firm of Butchart, Fredin & Eaton you  
3 could not find any services provided there which were  
4 beneficial to the whole group of pilots, both Canadian  
5 and American?

6 A There may have been. Of course,  
7 this is only a recommendation which is passed along  
8 for management purposes.

9 MR. LALONDE: Thank you.

10  
11 CROSS-EXAMINATION BY MR. BRISSET:

12 Q Sir, for the year 1963 would it be  
13 possible for your Department to prepare inter-association  
14 operating statements adjusted in accordance with re-  
15 commendations contained in your report of March 19th,  
16 1964 similar to the one that was prepared for the year  
17 1962?

18 A There was a statement of adjustment  
19 prepared for that particular year. It could possibly  
20 not have been in the same form.

21 Q Would you have this statement in  
22 your file?

23 A I believe the statement of adjustment  
24 is here today.

25 Q Will you refer to the document which  
26 is appended as Exhibit A to your report of March 19th,  
27 1964 on the 1963 operations and tell me whether this  
28 is an adjusted statement or not comparable to the one  
29 attached to the 1962 report dated June 26th, 1963?  
30





1 A This is a statement of operation  
2 which was submitted at the end of the year as an ex-  
3 hibit to the auditor's report. There is no adjustment  
4 on that.

5 Q There is no adjustment?

6 A On this particular statement.

7 Q What I am asking you is this: is it  
8 possible for your department to prepare in support of  
9 the year 1963 an adjustment, or at least an adjusted  
10 statement, in the form of the one prepared for the  
11 year 1962 as you have it here?

12 A Yes, that would be possible. There  
13 is an adjustment statement prepared, but I am not sure  
14 if it is in that form.

15 Q These are all the documents we have.  
16 We have not been able to find any adjusted statement  
17 for the year 1963.

18 A You wish the adjusted statement to  
19 be the final agreement of the expenditures which are  
20 allowed or those that were recommended to us?

21 Q Well, I would be quite satisfied  
22 if it were prepared in the same form as what appears  
23 to be the 1962 statement adjusted in accordance with  
24 your recommendations.

25 A Because the final statement is  
26 slightly different from the recommendations. The re-  
27 commendations are made but the final statement would  
28 be the accepted expenditures and revenues for each  
29 particular -- from the U.S. Administration.  
30





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Q Are you in a position at this time  
to prepare the final adjusted statement?

A For the U.S. operation?

Q Yes.

A We can prepare that.

Q Would you be good enough to file it  
as part of Exhibit 1391, your audit report for the  
year 1963?

A Perhaps I could ask another one of  
our auditors who did perform this audit to do that.  
He is here today and he has the adjusted statement.

Q Oh, he has it; all right, we can  
suspend this until he is called.

A But it is not quite in the form you  
asked. We cannot prepare it in that form.

Q It is immaterial, frankly, in what  
form it is prepared. I would be interested in getting  
the statement itself.

A Then, very good.

THE CHAIRMAN: Would you like to  
have it to-morrow if it is available because we are  
sitting to-morrow?

MR. BRISSET: Today, if it is  
ready here or to-morrow if it is not.

THE CHAIRMAN: If it is here, that is  
all right.

MR. JACQUES: Before we proceed  
any further, My Lord, we have secured several audit  
reports for all the Great Lakes Districts. I should







1 like to file as Exhibit 1408 the audit reports for  
2 District No. 2. They are for 1961, 1962 and 1963 and  
3 include the reports of the Port Huron office and the  
4 Port Weller office for 1961, 1962 and 1963. They are  
5 audited reports. We now have also for District No. 1  
6 the audited reports for the dispatching office at  
7 Cornwall for 1962 and 1963 and the dispatching office  
8 at Cape Vincent for 1962 and 1963. For 1961 there  
9 is no audited report. There is just the annual re-  
10 port, the operating statement, which has been filed  
11 already as Exhibit 843. So we now have a complete  
12 set of documents relating to finances in these three  
13 Districts.

14 THE CHAIRMAN: All that you are  
15 filing under 1408 for both Districts?

16 MR. JACQUES: What did Your Lordship  
17 say?

18 THE CHAIRMAN: 1408, was that only  
19 for No. 2 or for No. 1 also?

20 MR. JACQUES: For No. 2. 1409 is  
21 for No. 1, and with respect to No. 1 in 1961 there was  
22 only one dispatching office, so the new audited report  
23 would remain because it was Government administration.  
24

25 ---EXHIBIT NO. 1408: Audited reports for  
26 District No. 2 for  
27 years 1961, 1962 and  
28 1963 with reports on  
29 Port Huron office, and  
30 Port Weller office for  
1961, 1962 and 1963.





1 ---EXHIBIT NO. 1409: Audited reports for  
2 District No. 1 with reports  
3 on Dispatching Office at  
4 Cornwall for 1962 and 1963  
5 and dispatching office at  
6 Cape Vincent for 1962 and  
7 1963.

8 CROSS-EXAMINATION BY MR. LALONDE:

9 Q Mr. Richards, you audited the Cape  
10 Vincent financial statements 1963 and 1962. Would  
11 you tell me whether there were any legal expenses  
12 allowed?

13 A There were no legal expenses charged  
14 to the operation.

15 Q Have you anything to do with the  
16 budgets proposed? I understand a budget was proposed  
17 this year for Cape Vincent office.

18 A No, I have not. I am not directly  
19 involved with budgets. There are budgets proposed or  
20 prepared for each particular operation at the beginning  
21 of the year.

22 Q This would not go to you, I understand?

23 A This would be available for us for  
24 review prior to audit.

25 MR. LALONDE: I see; thank you.

26 THE CHAIRMAN: I think one of the  
27 difficulties we find here in these financial statements  
28 is the difference we have here in Canada. In Canada  
29 we have two sets of expenditures, the one of the  
30 authorities and the one of the pilots as a group;  
like, for instance, the insurance premium that they





1 are paying for themselves as a group, or some other  
2 matters -- their own telephone or their dues and so  
3 on.

4 In the United States all that is  
5 part of the Pilots' Corporation, which is also doing  
6 the dispatching and is managing the service. So there-  
7 fore, in the United States, the two are combined into  
8 the expenses of the district or of the pilotage  
9 service while in Canada it is divided.

10 This is the distinction with re-  
11 gard to the legal fees for instance. In Canada here  
12 they might be legal fees for the authority and legal  
13 fees for the pilots, while in the United States it  
14 would be legal fees of the corporation. That may be  
15 a source of difficulty.

16 MR. LALONDE: Q I notice, Mr.  
17 Richards, referring to your report for the year 1963  
18 you have a statement at page 5, Paragraph 14 to the  
19 effect that your legal expenses of the Seaway Pilot  
20 Inc. for 1962 total \$1,229.05 and that it is considered  
21 that at least 50 percent of this sum was incurred to  
22 incorporate the Seaway Pilot Inc. Such expenses are  
23 not usually valid expenses in the year in which they  
24 are incurred.

25 It would imply that you have left  
26 in half of these expenses to be charged.

27 Q I am not familiar with that; it is  
28 Mr. Bateman.

29 MR. LALONDE: I see; it is Mr. Bateman.  
30







1 Thank you.

2 THE CHAIRMAN: Are there any  
3 further questions of Mr. Richards?

4 Thank you, Mr. Richards.

5  
6 ---WITNESS WITHDREW

7  
8 ---

9 SIDNEY CLARK BATEMAN, sworn

10 THE SECRETARY: What is your oc-  
11 cupation, Mr. Bateman?

12 THE WITNESS: I am an employee of  
13 the Department of Transport in the Financial Services  
14 Division. I act in the same role as Mr. Richards, as  
15 Auditor and Inspector.

16 THE SECRETARY: You are an Auditor;  
17 thank you.

18 THE WITNESS: Yes.

19  
20 CROSS-EXAMINATION BY MR. LALONDE:

21 Q Mr. Bateman, I apologize if I have  
22 mispronounced your name a moment ago.

23 I am showing you your report for  
24 1962 -- or 1963?

25 A I dealt with 1963 in an audit  
26 capacity and Mr. Richards, of course, did 1962.

27 Q I see. I am showing you your  
28 statement at Paragraph 14. Am I to conclude from  
29 this paragraph that you allowed 50 percent of the  
30





1 legal expenses to be charged for common interest of  
2 the pilots in the area?

3 A I think the distinction here is  
4 that the Seaway Pilot Inc. was an adjunct to the  
5 American Pilots, which was incorporated in order to  
6 buy the pilot boat.

7 Q Yes, I think you are right; the  
8 Seaway Pilot Inc. is a company to own a pilot boat.  
9 Yes.

10 A The purpose in bringing this out  
11 in our report is to demonstrate to the Department's  
12 operational people in pilotage that there is a custom  
13 in an incorporation of this sort that seems to be  
14 affected by usage that some 50 percent of the legal  
15 fees involved with an incorporation is capital and  
16 the remainder may be of an expense type.

17 Q And that expense according to  
18 your report could have been charged to both Canadian  
19 and American pilots?

20 A This does not say this.

21 Q Well, what does your report say in  
22 that respect?

23 A These paragraphs that refer to the  
24 Seaway Pilot Inc. were written in order to recite to  
25 the operational people the facts surrounding the  
26 ancillary corporation ~~the~~ Seaway Pilot Inc. It does  
27 not bespeak of any opinion. It is just a reporting  
28 process that they have.

29 Q Surely the American Pilots'





1 Association had legal expenses in 1962 and 1963?

2 A Yes.

3 Q What did you recommend to the  
4 Department as far as these expenses were concerned?  
5 Were they charged to be divided amongst the Canadian  
6 and American pilots or did you adopt the same stand  
7 as adopted in District 3, that none of this should  
8 be allowed and be paid exclusively by the American  
9 pilots?

10 A Can you give me the district to  
11 which you are referring?

12 Q I am referring to District No. 1  
13 now.

14 A Yes.

15 Q Is your report completely silent  
16 on the matter and are we to conclude from this that  
17 you consider that these were expenses which could be  
18 normally charged to the whole district?

19 -

20 -







1 A. Instead of looking it up, I think,  
2 just from a brief look, I am sure there were no legal  
3 charges against the joint operation in district No. 1.

4 Q. What makes you say that? I am  
5 referring to the annex of the document. I had to look  
6 at this pretty quickly. There is an annex with  
7 reference to the St. Lawrence-Seaway Pilotage Association  
8 operating statements for the period, and I refer you to  
9 the third statement entitled "Seaway Pilots Inc."  
10 and to the expense statement for the years 1962-63;  
11 and you have a legal expense there of something like  
12 \$119.25?

13 A. Yes.

14 Q. And in the first statement, which  
15 is called an operating statement, there does not appear  
16 to be any specific charge in it for legal expenses;  
17 but those expenditures are pretty large items, or  
18 broad items like "billing," "collection" and "accounting."  
19 Would you check whether the legal expenses were taken  
20 out in that case?

21 A. I will have to look for my papers  
22 here. To the best of my knowledge there were no  
23 legal fees charged against the pilot group in the group  
24 operations.

25 Q. And what about the small amount  
26 I referred to in connection with Seaway Pilotage Inc?

27 A. This is charged as an expense in  
28 the financial statement of Seaway Pilots Incorporated,  
29 which is something that was reported to the operational  
30 people in the Department of Transport as information





1 only and carried with it no opinion.

2 MR. LALONDE: Thank you.

3

4 CROSS-EXAMINATION BY MR. BRISSET:

5

6 Q. Mr. Bateman, in this audit report of  
7 March 19, 1964, paragraph 22, I see the following:

8 "A budget for 1964 was provided by the Association  
9 and has been placed on the same file."

10 Would it be possible for you to provide us with a  
11 copy of that exhibit?

12 A. You are referring to district No. 3?

13 Q. Yes, district 3?

14 A. No. The way this was dealt  
15 with, this was dealt with in the office of the Lake  
16 Superior pilots, and was dealt with by a representative  
17 of the United States Secretary of Commerce and the  
18 Administrator of the Lake Superior pilots.

19 I don't think I played a specific role  
20 in it at that time, because I understood it to have  
21 been worked out between the two and that it would  
22 be forwarded to Ottawa in order to be reviewed by the  
23 people who administer pilotage.

24 Q. There is a notation that this  
25 budget "has been placed on file No. 8500-57-3."

26 A. Yes.

27 Q. Is that one of the Department's  
28 files?

29 A. Yes; and I feel it must be there.  
30 I haven't got it here at this minute.





1 Q. Would it be possible to file a copy  
2 of this budget to be attached to the audit report as  
3 a further exhibit?

4 A. Yes; I feel confident we can do  
5 that.

6 MR. BRISSET: That is Exhibit 1391.

7  
8 ---To be added to Exhibit 1391: Copy of audit report,  
9 Great Lakes Pilotage  
District No. 3, dated  
March 19, 1964.

10 Q. Now, I was asking the previous  
11 witness whether it was possible for you to supply us  
12 with a copy of the adjusted statement for the year  
13 1963 for district No. 3, and I was referred to you as  
14 being the keeper of this document?

15 A. Copies of this are available, too,  
16 if you will confirm with me that this is what you want.  
17 I couldn't quite follow you at the time.

18 Q. Would you explain how this  
19 statement was prepared? Tell us, at the same time,  
20 what was the reason, if any, why a statement in the  
21 form of that attached to your audit report of June 26  
22 1963 for the year 1962 was not prepared?

23 A. Yes; the 1963 audit report deals  
24 with this financial statement...

25 Q. Which is appendix "A" to Exhibit  
26 1391 for the year 1963?

27 A. This financial statement was  
28 prepared by the Lake Superior Pilots Association as  
29 an extract from their corporate records to reflect,  
30 according to my understanding, the partnership existing







1 between the American and Canadian pilotage groups.

2 It wasn't reproduced in the audit report because it  
3 was attached as an exhibit.

4 I think that paragraph 2 of the audit  
5 report specifies that "...the examination of  
6 this financial statement was carried out in the office  
7 of the Corporation, and the following information was  
8 provided relative to each significant figure in the  
9 order in which they appear in that exhibit;" and  
10 consequently it runs parallel.

11 MR. BRISSET: My Lord, we will, with  
12 your permission, replace the illegible copy with the  
13 legible one, and I understand from Mr. Bateman that  
14 we will be provided with the final adjusted report  
15 when copies are available.

16 THE WITNESS: If I may make this clear --  
17 that is, the import of this page here in order to avoid  
18 misunderstanding -- the Financial Division operates as  
19 a service for the operational people in pilotage.  
20 This report was prepared in order to establish the  
21 mutual understanding between us on financial matters.

22 We attempt to give them the report on  
23 the finances. There is another stage, I understand,  
24 where pilotage refers this to the United States  
25 Government, and there may, or may not, have been another  
26 resolution at that stage.

27 THE CHAIRMAN: You have just mentioned  
28 "this page," and, for the record, I would like to you  
29 identify it. When we read it later on we want to  
30 be able to see what you were referring to.





1 MR. BRISSET: We could give it the  
2 number Exhibit AA seeing that the original inter-pool  
3 association settlement statement was appended as  
4 Exhibit A; and, therefore, Exhibit AA will be intended  
5 to complete...

6 THE CHAIRMAN: "AA" to what?

7 MR. BRISSET: To Exhibit 1391, the  
8 1963 audit report of the Department.

9 MR. JACQUES: Q. Do you audit any  
10 of the books of the other pilotage districts in Canada?

11 A. I have carried out audits only on the  
12 Great Lakes group. I have never audited the accounts  
13 of any other of the pilotage authorities that exist  
14 across Canada.

15 Q. Do you know if it is done by  
16 someone else?

17 A. I am speaking for my office and I  
18 know that I shouldn't do this, but I know it is done.  
19 There are audits from time to time.

20 Q. When you audit the books of the  
21 Great Lakes districts do you check on the legality of  
22 the charges which are made to shipping? Do you  
23 check that as against the memorandum of agreement?

24 A. The way we carry this out is --  
25 or, I should say, the way that this was carried out in  
26 1963, which is the only time of which I have knowledge --  
27 I went with Mr. Kennedy from the pilotage group in the  
28 Department of Transport, who had this technical  
29 knowledge. As an auditor I don't have the technical  
30 knowledge of the rates, etc., that would permit me





1 to express an opinion about whether the rate was  
2 properly charged. I had a working understanding of  
3 them at the time because we work in concert; but Mr.  
4 Kennedy and I travelled together, and this is the way  
5 it was carried out.

6 Q. And you accepted the figures which  
7 were pointed out to you as being the exact charge?

8 A. Mr. Kennedy reviewed the accounts  
9 and certainly satisfied me that, to the best of my  
10 knowledge, the rates or charges were appropriate  
11 according to what we say in our report.

12 MR. JACQUES: Thank you.

13 THE CHAIRMAN: Are there any further  
14 questions of Mr. Bateman?

15 --- No response.

16 THE CHAIRMAN: Thank you very much.

17 We come now to questions for Great  
18 Lakes District No. 2.

19 MR. JACQUES: Yes.

20 THE CHAIRMAN: And to question No. 4.

21 MR. JACQUES: Yes.

22  
23  
24 F.S. SLOCOMBE, recalled

25 MR. JACQUES: Q. You are under  
26 the same oath, Captain.

27 THE WITNESS: Yes.

28  
29 DIRECT EXAMINATION BY MR. JACQUES:

30 Q. Now, Captain, question No. 4,







1 Great Lakes District No. 2...

2 Before moving on to question No. 4 we  
3 should like to file a document, being a receipt signed  
4 by a pilot acknowledging receipt of a copy of the  
5 Department of Transport circular entitled "Information,  
6 Policies and Regulations for Ships' Pilots, Port  
7 Weller-Sarnia Area." It is dated June 3rd 1959.

8  
9 --- EXHIBIT No. 1410: Copy of Department of  
10 Transport circular entitled  
11 "Information, Policies and  
12 Regulations for Ships'  
Pilots, Port Weller- Sarnia  
area." dated June 3rd  
1959.

13 We should also like to file as Exhibit  
14 1411 a phot copy of the medical report on an applicant  
15 pilot, dated 27th October 1959.

16 By the way, all these documents are for  
17 the same pilot, Mr. Garfield Simpson.

18 --- EXHIBIT No. 1411: Photocopy of medical  
19 report on applicant pilot,  
dated 27th October 1959.

20 Lastly, I should like to file a copy  
21 of an oath of allegiance and oath of office and secrecy  
22 sworn to by Mr. Simpson on the 14th of April 1960.  
23 That would be Exhibit 1412.

24 --- EXHIBIT No. 1412: Copy of oath of allegiance  
25 and oath of office and  
26 secrecy, sworn to by Pilot  
27 Garfield Simpson on April  
28 14, 1960.  
29  
30





1 A The answer, My Lord, to the question  
2 when were the certificates issued to Port Weller and  
3 Port Huron pilots given in 1959 or 1960, the answer  
4 is they were given in 1960. There was no certificate  
5 given to them in 1959.

6 Q Either permanent or casual employees?

7 A Merely an identity card which was  
8 given to them all.

9 MR. LALONDE: The receipts you  
10 have filed as Exhibit 1410, do you have similar re-  
11 cepts for all the pilots in the district or is it the  
12 only one you could find?

13 THE WITNESS: We were only asked to  
14 find one. We found one, but we understand they were  
15 all in the same way.

16 MR. LALONDE: Thank you.

17 THE CHAIRMAN: Any further questions  
18 on Question No. 4? You might pass to Question No. 5.

19 MR. JACQUES: That was not question  
20 no. 4. These were questions which had been left over.

21 THE CHAIRMAN: But you were at  
22 question no. 4, Captain Slocombe.

23 MR. LALONDE: That is what I heard.

24 THE CHAIRMAN: Yes, the answer is given,  
25 and we are at No. 5 now as far as the Commission is  
26 concerned.

27 MR. JACQUES: The Commission is  
28 moving too fast.

29 BY MR. JACQUES: Q Would you answer the  
30





1 first part of Question No. 4 when were the Port  
2 Weller and Port Huron dispatching officers established?

3 A The Port Weller dispatching office  
4 was already established in 1960, but the U.S. office  
5 at Port Huron didn't open officially until July 15,  
6 1961.

7 Q When were the first registration  
8 certificates for District 2 issued to Canadian and  
9 American pilots?

10 A When the legislation came into  
11 effect, which was May 1st, 1961.

12 Q When did the District 2 operations  
13 start as a joint effort?

14 A That was the date.

15 Q The 1st of May, 1961?

16 A Right.

17 Q Question No. 5, if there is no  
18 question on Question No. 4?

19 A The original duties of the Port  
20 Weller supervisor included those of supervising pilots.  
21 It was intended that he should occasionally take a  
22 pilotage trip when he deemed it necessary in order to  
23 keep ships moving.

24 Later the question arose as to  
25 the number of Canadian registered pilots, and this  
26 complicated things, so it was decided to withdraw his  
27 registration.

28 THE CHAIRMAN: So now the Supervising  
29 Pilot is not a pilot?  
30







1 THE WITNESS: He is a supervisor  
2 now.

3 THE CHAIRMAN: He still has the  
4 title of Supervising Pilot. That is the way he was  
5 called when we were there.

6 MR. LALONDE: That is the way he  
7 signs working rules and such other documents, My Lord.

8 THE CHAIRMAN: It is his title.  
9 We questioned it at the time.

10 THE WITNESS: Perhaps we have to be  
11 told about this.

12 MR. LALONDE: I refer to Exhibit  
13 1014, joint inter-pool working rules Great Lakes  
14 Pilotage District Nos. 2 and 3, signed by John Watson,  
15 Supervising Pilot, Department of Transport, Port  
16 Weller, October 11, 1963.

17 Q Question No. 6, the source of  
18 authority granted to the Supervising Pilot with respect  
19 to the orders which he may make for the effective  
20 carrying out of these regulations, particularly,  
21 conduct of pilots and use by pilots of buildings and  
22 premises, and the attendance of pilots before the super-  
23 visor of pilots.

24 A Where are you reading from?

25 Q I am reading from Paragraph 14 of  
26 Exhibit 1011.

27 A Oh, I thought you were reading a  
28 question. My answer is that the authority of the  
29 supervisor is as in the case of any other departmental  
30





1 officer, whatever that may be.

2 Q And where would that be contained,  
3 or would it be contained in anything? Would that be  
4 in the appointment, such as the appointment we have  
5 seen? We saw, for instance, Captain Gendron was ap-  
6 pointed in Montreal and his immediate superior asked  
7 for his appointment of Captain Jones.

8 A Yes, it would be the same as has  
9 been mentioned before in evidence.

10 Q Well, the supervisor in the other  
11 District has a by-law adopted granting him various  
12 powers but within the framework of prevailing service  
13 employment there are by-laws, of course, applicable to  
14 employees, but with respect to discipline and what not  
15 are there any by-laws adopted by any authority whatsoever?

16 MR. MACGILLIVRAY: I suppose, My  
17 Lord, this is another question in which Captain Slocombe  
18 is being asked to give information as to the legality  
19 of this. I do believe that probably some member of the  
20 law branch of the Department was consulted at the time  
21 this paper was written. I would imagine that legal  
22 advice given was that there must be sufficient authority  
23 somewhere in the prevailing rates employees' regu-  
24 lations or common law relationship between master and  
25 servant to authorize the item that Mr. Jacques was ask-  
26 ing about. It will probably involve quite a study to  
27 go looking for the actual authority.

28 THE CHAIRMAN: This office would  
29 not be that of superintendent spoken of in Part VI of  
30





1 the law. It is an area where the pilotage services is  
2 adminstered by the Minister and by the Department of  
3 Transport as such.

4 MR. JACQUES: I might remark that  
5 my learned friend Mr. Macgillivray makes it sound as  
6 though I was persecuting Captain Slocombe in the  
7 question. But again, I say these questions were not  
8 directed to Captain Slocombe but to the Department,  
9 and the Department chose to let Captain Slocombe  
10 answer.

11 MR. MACGILLIVRAY: Mr. Jacques is  
12 now persecuting me!

13 Q Question No. 7 refers to Exhibit  
14 1012.

15 A This Exhibit 1012 was superceded  
16 by working rules and dispatching procedures, Great  
17 Lakes Pilotage District No. 2, dated April 15, 1964.  
18 Is this on file, Mr. Jacques?

19 Q Yes, we have that document, My  
20 Lord. We might annex it to Exhibit 1012. 1012, can  
21 you tell me whether it applied only to Canadian pilots  
22 or to American pilots?

23 MR. LALONDE: It never applied to  
24 anybody I suppose.

25 THE WITNESS: This only applied to  
26 Canadian pilots, I understand.

27 MR. JACQUES: This document is  
28 signed we note again by Supervising Pilot, Department  
29 of Transport. I suppose if I were to ask his authority  
30







1 to sign this joint agreement between Canada and the  
2 United States, the answer would be the same as that  
3 given this morning?

4 THE WITNESS: Yes.

5  
6 ---Addition to EXHIBIT NO. 1012: Working rules and  
7 dispatching procedures,  
8 Great Lakes Pilotage  
9 District No. 2, dated  
10 April 15, 1964.

11 CROSS-EXAMINATION BY MR. LALONDE:

12 Q You have noticed on the American  
13 side the agreement is also signed by two representatives  
14 of the Lakes Pilots' Association Inc., and then the  
15 Supervising Pilot, Department of Transport, and then  
16 Great Lakes Pilotage Administration, U.S. Department  
17 of Commerce, and then Superintendent of Pilotage,  
18 Marine Regulations Branch, Department of Transport,  
19 Ottawa.

20 Is there any particular reason  
21 why the signature of the two officers of the Department  
22 of Transport is required on this document?

23 A Perhaps not, but it just, I would  
24 say, was added there as a parallel to Captain Meschter  
25 on the other side.

26 Q Then, am I to understand that you  
27 signed Captain Watson as a parallel to the President,  
28 the Chairman of the Lakes Pilots' Association, Inc.?

29 A He is supposed to be representing  
30 the pilots as well, yes.

Q So he is the parallel to the Lakes





1 Pilots' Association, Inc. in your mind?

2 A In a sense, yes. They are the  
3 working group on that side. They are speaking for the  
4 pilots on that side, and the supervisor speaks for  
5 pilots on our side.

6 Q I see. And to your knowledge were  
7 the pilots on the Canadian side consulted at any time  
8 before these dispatching rules were adopted?

9 A Well, we are quite sure they were.

10 Q Quite sure?

11 A Because the supervisor of pilots is  
12 in touch with the pilots all the time.

13 Q I will tell you that I am quite sure  
14 that they were not, and we have got more evidence than  
15 that. You didn't check yourself, did you?

16 A No.

17 Q You assume they were consulted?

18 A Yes, and I still think so.

19 Q I am instructed by the Pilots'  
20 representatives that they were not consulted at any  
21 time. We have it in evidence they were not consulted  
22 on the first ones anyway.

23 MR. JACQUES: This prompts a question  
24 on my part. The problem has been raised several times  
25 whether you have consulted or whether you had not  
26 consulted the pilots on a series of problems. To my  
27 mind there is a difference where the pilots are private  
28 contractors and when the pilots are employees of the  
29 Government.  
30





1 Do you know whether it is the  
2 practise of the Department of Transport to consult  
3 their masters or ships officers whenever they adopt  
4 any working rules?

5 THE WITNESS: I don't know whether  
6 there are any working rules in that sense as the  
7 master of the ship -- the work of a master of a ship  
8 is well known, but I feel pretty sure that other  
9 operating branches such as canals and so on, they  
10 don't consult the employees before they make rules  
11 excepting ordinary discussions and day-to-day contacts.  
12

13 THE CHAIRMAN: I think a distinction  
14 here has to be made with regard to what the type of  
15 advice is that is being sought. Is it technical ad-  
16 vice on a pilotage matter. Then some supervisor or  
17 even the authority knows nothing about that -- not a  
18 pilot and hasn't knowledge of piloting -- and will  
19 have to consult experts. The pilots.

20 However, when it is a question of  
21 organisation of the service, it does not entail any  
22 expert knowledge necessarily, so therefore it is not  
23 necessary to go to them. If it is a question where  
24 pilotage as a science, as an art or science is in-  
25 volved, then the pilots have to be consulted. Of  
26 course, it may affect the question of work also, the  
27 commission of work, the workload and so on. This is  
28 a question of working conditions; a labour matter.

29 MR. JACQUES: By the way, My Lord,  
30 my question I hope does not imply approval or







1 disapproval.

2 THE CHAIRMAN: No, no. Neither  
3 did the statement I am trying to make. I am just  
4 thinking out loud.  
5

6 DIRECT EXAMINATION BY MR. JACQUES:

7 Q Question No. 8, Captain, please.

8 A My Lord, suspension or dismissal  
9 of a registered pilot would be both as an employee of  
10 the Crown, and this would entail withdrawal of his  
11 registration certificate because any circumstance  
12 which would bring about the dismissal from the service  
13 would obviously also be justification for withdrawal  
14 of the certificate, of the registration certificate.  
15

16 Q It might also be that one does not  
17 necessarily follow upon the other. He might be dis-  
18 missed as a pilot, say, for instance, because he is  
19 no longer physically fit to be a pilot, owing to  
20 eyesight deficiency, but he might make a wonderful  
21 supervisor.

22 A Oh, this is another matter. This  
23 would be withdrawal of the registration first. For  
24 a certain reason. That might not necessarily entail  
25 dismissal from the service if there were some other  
26 duties that he were given.

27 Q Now, can you tell me if there exists  
28 any regulations with respect to the suspension or dis-  
29 missal of prevailing rate employees?  
30

A Oh, yes, there are; but I haven't





1 got them.

2 Q Would that be the big book that  
3 was shown to us a few days ago?

4 MR. MACGILLIVRAY: The book that  
5 was shown us yesterday was the Department personnel  
6 manual, which is simply a manual for the personnel  
7 officers and other people to refer to, and whatever  
8 regulations on the subject there are would be contained  
9 in it.

10 MR. JACQUES: In that manual?

11 MR. MACGILLIVRAY: Yes, but whatever  
12 they are, they would be taken from some other source.

13 Q I was just curious because in the  
14 maze of by-laws and rules and regulations adopted by  
15 the Government I was surprised not to find one which  
16 applied to the suspension or dismissal of prevailing  
17 rate employees.

18 A I think I have seen such procedure  
19 laid out, and I think, as Mr. MACGillivray has said,  
20 it is in that manual.

21 Q Might we prevail upon you to give  
22 to the Commission which regulations apply in the case  
23 of suspension or dismissal?

24 A Not now?

25 Q No, no, not now.

26 A Yes, we will do that.

27 MR. JACQUES: At some other time.

28 THE CHAIRMAN: You will make that  
29 in writing unless you may find it before to-morrow.  
30





Slocombe, Dr Ex 20,646.  
(Jacques)

1 If it is later, you will make that in writing and send  
2 it to us.

3 THE WITNESS: Yes, sir. May I ask  
4 does the Commission already have a copy of this  
5 manual?

6 MR. JACQUES: No.

7 MR. LALONDE: Should a copy be  
8 made available to the Commission, or filed as an  
9 exhibit, would it be only to show the weight of paper  
10 which a pilot could read in order to know what his  
11 stand is as an employee.

12 THE CHAIRMAN: Could we have a  
13 copy of it furnished to us?

14 THE WITNESS: I assume so, My Lord.

15 THE CHAIRMAN: It will Exhibit 1413.

16 MR. JACQUES: What is the name of  
17 the manual?

18 THE CHAIRMAN: Personnel Manual.

19 MR. MACGILLIVRAY: Personnel Manual  
20 of the Department of Transport.

21 THE WITNESS: I might say I have  
22 been in the Department twenty-seven years and it has  
23 never occurred to me to ask for such a thing.

24  
25 ---EXHIBIT NO. 1413: (To be supplied.) Personnel  
26 Manual of the Department  
27 of Transport.

28 BY MR. JACQUES: Q Question No. 9,  
29 sub-question 1.

30 A Source of authority of Port Weller







1 supervisor is his instructions from headquarters, sub-  
2 ject to amendment.

3 Q Yes?

4 A By higher authority.

5 Q Sub-question No. 2?

6 A The same.

7 Q Question No. 3?

8 A The answer to that is that the  
9 supervisor, as I said just now, is in touch with pilots  
10 daily, and we must trust him not to recommend measures  
11 that are unworkable.  
12  
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1 Q Sub-question No. 4?

2 A The joint rules are now in process  
3 of revision.

4 MR. LALONDE: May I have the answer  
5 to Question 3 read back, please?

6 THE REPORTER: "The answer to  
7 that is that the supervisor, as I said just  
8 now, is in touch with pilots daily and we  
9 must trust him not to recommend measures that  
10 are unworkable."

11 MR. JACQUES: Q Question 10 has  
12 been answered. All right, Question 11 --

13 THE CHAIRMAN: Are there any  
14 questions on that from Mr. Lalonde or Mr. Brisset?

15 MR. LALONDE: Do you remember  
16 having been in Port Weller on June 24th this year, to  
17 have a meeting with a representative of the American  
18 pilots and the U.S. Department of Commerce?

19 THE WITNESS: Yes.

20 MR. LALONDE: You would not think  
21 that the pilots' representatives would be of any  
22 value at such meeting?

23 THE WITNESS: We did not think it  
24 necessary.

25 MR. LALONDE: Thank you.

26 THE CHAIRMAN: Question 11.

27 MR. JACQUES: Q Did you request  
28 the Shipping Federation to refrain from discussing  
29 with or consulting the Canadian pilots of District 2?  
30





1 A Yes, the Department did ask the  
2 Shipping Federation not to hold discussions with the  
3 pilots without Departmental representation.

4 Q May I ask why that decision was  
5 made?

6 A I think the answer is obvious. In  
7 any organisation I do not think that the employees  
8 would be permitted to hold meetings with other people  
9 affecting the work without the knowledge of the people  
10 in charge.

11 Q Question No. 12 -- did you reprimand  
12 District 2 pilots for having prompted a meeting with  
13 the Seaway people?

14 A I do not think "reprimand" is the  
15 word. We did indicate to the pilots that if they want  
16 such a meeting they should arrange it through the  
17 Department.

18 Q Questions 13 and 14 have been  
19 answered already.

20 THE CHAIRMAN: 13 has not been  
21 answered.

22 MR. JACQUES: It is going to be  
23 answered through exchange of correspondence, My Lord.

24 THE CHAIRMAN: I see.

25 MR. JACQUES: It has been answered  
26 in part and the rest will be answered.

27 Q Question 15?

28 A A new contract is now being entered  
29 into with Mrs. Paddle, the owner of the pilot boat at  
30







1 Port Weller and these downbound ships may drop their  
2 pilots at Lock 1 if the master is willing to proceed  
3 himself.

4 Q They will have the choice of trust-  
5 ing the pilot to take the ship out?

6 A Oh, yes, a pilot must be discharged  
7 before he may leave the ship.

8  
9 CROSS-EXAMINATION BY MR. LALONDE:

10 Q Is the contract now settled or not?

11 A Yes, it is now. It is a verbal  
12 contract but instructions have been given to increase  
13 the rate paid to Mrs. Paddle for the services.

14 Q Yes. You are aware that they are  
15 going to twin the locks at Port Weller, or are you not?

16 A Eventually, yes.

17 Q When do you think it is going to  
18 be done?

19 A I have no idea.

20 Q Is it not a fact that they are sup-  
21 posed to start building this this fall?

22 A Possibly.

23 Q Starting work on this this fall.  
24 If you are not aware that they are to start work you  
25 are not aware of what that would mean as far as impedi-  
26 ments around the locks and the entrance of the Welland  
27 Canal are concerned?

28 A I do not think this should affect  
29 whatever action be taken in this matter now. If it  
30





1 is found it is not workable it may be changed again.

2 Q I see. So you enter into a contract  
3 without knowing what is going to take place within  
4 the next few months or the next year and if the matter  
5 becomes unreasonable you are going to change the  
6 contract again. Is that what you are saying?

7 A I think this is reasonable.

8 MR. MAC GILLIVRAY: Is this a con-  
9 tract for the twining of the locks?

10 MR. LALONDE: No, a contract for the  
11 pilot boat. I hope this is what Captain Slocombe is  
12 referring to.

13 THE WITNESS: Yes. It is just a  
14 verbal contract.

15 MR. LALONDE: Q Oh, it is a verbal  
16 contract?

17 A Yes. We have just agreed to in-  
18 crease the tariff now to compensate for whatever Mrs.  
19 Paddle might lose by the fact that some of the ships  
20 will not use the pilot boat.

21 Q And the ships are going to be free  
22 to use or not use a pilot to go out?

23 A This is correct.

24 MR. JACQUES: To go out or to come  
25 in?

26 THE WITNESS: To go out.

27 MR. LALONDE: Q Out. I suppose  
28 the person consulted on that decision was the super-  
29 vising pilot; is that correct?  
30





1 A Yes, and very strong representations  
2 from the Shipping Federation and from other people.

3 Q Which other people?

4 A The American administrator for  
5 instance. He felt that we might make the operation  
6 a little simpler there.

7 Q You know the man you called the  
8 supervising pilot has never been a pilot in his life?

9 A Is anybody suggesting he is not a  
10 competent ship's master?

11 Q This is not my question. I ask  
12 you whether he has ever been a pilot in his life?

13 A Yes, he has been because he has  
14 been piloting in the Canal.

15 Q As a lake man?

16 A At the beginning when he was super-  
17 vising pilots he occasionally took a ship.

18 Q You mean Captain Watson took ships  
19 up and down the Canal at the beginning?

20 A Yes.

21 Q Do you know how many times he did  
22 so?

23 A No.

24 Q Did you ever check into this matter?

25 A We told him he should do it oc-  
26 casionally.

27 Q I see, but you do not know whether  
28 he did it or not?

29 A No.  
30







1

Q So you assume he did it?

2

A This makes no difference to his  
competency.

4

Q You presume he did it; is that  
correct?

5

6

A He informed us that he had done so.

7

Q Informed you or somebody else?

8

A I do not remember.

9

10

Q You do not remember, and you do not  
know on how many occasions he did it?

11

A No.

12

13

CROSS-EXAMINATION BY MR. BRISSET:

14

15

16

17

18

19

Q The Department having now taken the  
wise and logical decision of permitting the pilots to  
leave their vessels in Lock No. 1 downbound, has the  
Department issued notices to shipping or to mariners  
advising shipping that this could be done?

20

A This move is just being made now.

21

22

Q Is it the intention of the Department  
to issue a notice to mariners, accordingly?

23

24

A I do not think that we had planned  
to put out a notice to mariners on it, but maybe it is  
necessary.

25

26

Q May I suggest that it be done?

27

A You may.

28

MR. BRISSET: Thank you.

29

30





1 DIRECT EXAMINATION BY MR. JACQUES:

2  
3 Q With respect to boarding and leaving  
4 a vessel at Port Weller am I right in saying that to  
5 come into Port Weller a ship may come in and tie up  
6 at the wait wall of Lock 1 without the assistance of  
7 a pilot; is that correct?

8 A No, they are not supposed to.

9 Q They are not supposed to?

10 A No. The pilots are going to keep  
11 on going -- I may say at the insistence of the  
12 pilots.

13 MR. LALONDE: Which pilots?

14 THE WITNESS: The Port Weller/Sarnia  
15 pilots. We do occasionally listen to them.

16 MR. LALONDE: Although you do not  
17 consult them?

18 THE WITNESS: Well, this is the  
19 fallacy of this term "consult them", Mr. Lalonde.  
20 We are in touch with the pilots through our supervisors.  
21 Possibly a supervisor will not consult with somebody  
22 whom he knows to be inimical to everything he might  
23 suggest, but we do have consultation continuously  
24 between the supervisors and the pilots, as the  
25 Commission has found in other districts.

26 THE CHAIRMAN: But there is no  
27 pilots' committee in that area?

28 THE WITNESS: There is not, My  
29 Lord. There are two groups of organisation.

30 THE CHAIRMAN: Two different groups





1 of pilots, yes.

2 THE WITNESS: So the only thing he  
3 could really do is to talk to them when they come in.

4 MR. LALONDE: I see, but not con-  
5 sult the two groups?

6 THE WITNESS: Not in this sense,  
7 that you make it of a formal consultation, no.

8 MR. JACQUES: Q So the boarding  
9 of vessels at Port Weller takes place as was  
10 established when we sat in St. Catharines -- the pilot  
11 goes out with the pilot boat, boards the vessel and  
12 takes her in?

13 A This is correct.

14 Q Are these canal pilots, or port  
15 pilots? We understood there were two port pilots  
16 appointed in Port Weller.

17 A Well, we have had two men appoint-  
18 ed there for this purpose -- to relieve, to shorten  
19 the trip, to shorten the hours of work of the canal  
20 pilots.

21 Q Are they still operating, these  
22 two men?

23 A They are still operating, yes.

24 Q So, with a ship, three things may  
25 happen. She may come in on her own -- but that is  
26 not the proper way of doing it.

27 A She may come in on her own if --

28 Q If she has a B Certificate.

29 A If she has a B Certificate. No...  
30







1 MR. LALONDE: You are going to get  
2 stuck. Come on.

3 THE WITNESS: Well, some ships  
4 have -- ships with B certificates.

5 MR. JACQUES: Q And then the  
6 ship may be brought in by one of the port pilots?

7 A This is another way, yes.

8 Q And these port pilots are registered  
9 pilots for District No. 2?

10 A Yes.

11 Q They are not on the tour-de-rôle;  
12 their work is confined to harbour work?

13 A For this movement from outside in  
14 the anchorage to the wharf.

15 Q From outside in?

16 A Yes, and moving along the wall.

17 Q Moving along the wall up to Lock 1?

18 A Right.

19 Q To take ships into Lock 1?

20 A They might occasionally if there  
21 were no pilot available. Certainly we would think  
22 they should be permitted to continue in.

23 Q Is their registration certificate  
24 limited in any way? Does it contain a limitation?

25 THE CHAIRMAN: I think there will  
26 be a lot of cross-examination on that point.

27 THE WITNESS: Well, I learn that  
28 we have not given them a registration certificate --  
29 rather to my surprise.  
30





1 MR. JACQUES: Q If and when they are  
2 registered will it contain a limitation?

3 A This depends on how we intend to  
4 use them. Eventually they might be absorbed into the  
5 staff.

6 Q Are they both Canadian?

7 A Yes.

8 Q They are both Canadian. How does  
9 this affect the principle of equity between the two  
10 groups?

11 A It does not because they are not  
12 counted in it and no separate charge is made for their  
13 services.

14 Q Who pays them?

15 A Canada.

16 Q They are prevailing rate employees?

17 THE CHAIRMAN: I think we will have  
18 a recess for a few minutes and then the questions  
19 will be clearer perhaps.  
20

21 ---SHORT RECESS

22 ---UPON RESUMING:  
23

24 MR. JACQUES: Q Now, if we may continue  
25 with these unregistered, unlicenced, unofficial and  
26 uncounted other pilots...

27 A I find things have been happening  
28 that I do not know about and I find that these men are  
29 paid out of the pool in the usual way but they are on  
30 salary. They are put in as part of the expenses of





1 the operation.

2 Q I see, and I suppose they were  
3 chosen with the concurrence of the American administrator?

4 A Yes. I think this was a suggestion  
5 of the pilots when they were up to see me last winter,  
6 that there should be somebody doing this work.

7 Q I see, and they only take ships in?

8 A Yes. No. Yes, this is right.

9 Q They only take ships in?

10 A Yes.

11 Q A ship leaving the canal eastbound  
12 may drop off her pilot at Lock 1 and proceed on her  
13 own?

14 A Yes.

15 Q With or without a B certificate?

16 A No, because if he were going out  
17 without a B certificate he would have a registered  
18 pilot on board.

19 Q Correct -- to go across Lake Ontario?

20 A Yes, but if a man with a B certifi-  
21 cate did not want to release his pilot the pilot would  
22 have to stay on board. This was something that was  
23 done in order to try to relieve the difficulty we were  
24 in through a shortage of pilots -- a shortage of pilots  
25 which apparently we could not correct.

26 MR. LALONDE: Are you sure that the  
27 salaries of these two men are paid out of the pool and  
28 shared by the Americans?

29 THE WITNESS: I am informed so.  
30







1 MR. MAC GILLIVRAY: Well, is it not  
2 true that their salaries are paid by the Government  
3 out of the consolidated revenue fund the same as other  
4 Government expenditures, but that having paid the  
5 salaries this amount that has been paid is shown as  
6 an expense in operation of the district and therefore  
7 recoverable out of the pool?

8 THE WITNESS: Yes, the same as the  
9 other civil servant pilots, as you might say, in the  
10 District.

11 MR. LALONDE: I have a point here  
12 as to whether it would appear as salaries of pilots  
13 since they are not considered as pilots; they are not  
14 registered and they do not count in the over-all parity  
15 all over the lakes.

16 THE WITNESS: Well, this is so,  
17 but it was agreed apparently that this should be a  
18 charge on the pool.

19 MR. LALONDE: Yes, but it could  
20 not come as pilots' salaries.

21 THE WITNESS: Oh, yes, they are  
22 pilots. Anybody who has conduct of a ship and is not  
23 a member of the crew...

24 MR. JACQUES: Q In whose employ  
25 are they?

26 A The Department of Transport.

27 Q They are prevailing rate employees?

28 A They are prevailing rate employees.

29 Q And they are paid out of the pool?  
30





1                   A       They are paid, as Mr. MacGillivray  
2 said, out of the consolidated revenue fund which is  
3 reimbursed.

4  
5 CROSS-EXAMINATION BY MR. BRISSET:

6                   Q       Captain, these two harbour pilots  
7 being non-registered pilots are not permitted, I take  
8 it, for that reason to pilot ships in the Welland  
9 Canal itself?

10                  A       Not so far; I think not any farther  
11 than Lock 1. But again, I would say that if there  
12 was any threatened holdup I personally would support  
13 that they would carry on.

14                  Q       I am instructed, Captain, that  
15 more than once it has happened that these pilots have  
16 taken ships from the anchorage to the waiting wall  
17 when it was found that there was no pilot available  
18 to go further, with the result that the ships have  
19 had to come back to anchorage waiting for a pilot.  
20 Are you aware of this?

21                  A       This was something that was brought  
22 to our attention I think last winter; but now with  
23 the employment of these two men this should not happen.  
24 I do not think it has happened since these two men  
25 were employed.

26                  Q       I am instructed that this happened  
27 with these two port pilots.

28                  A       Then somebody slipped.

29                  Q       In a case where there are no pilots  
30





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1 available to proceed up the Welland Canal would you  
2 think it advisable, Captain, that Captain Watson be  
3 instructed to inform the master of the ocean ship wait-  
4 ing at anchor for a pilot that he is free to proceed  
5 if he wants, on his own, in view of the non-availability  
6 of a registered pilot?

7 A Yes.

8  
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1 THE WITNESS: Yes; and this is being  
2 done with certain safeguards to cover the responsibility  
3 of the master in that case.

4 MR. BRISSET: When has this policy  
5 been put into effect?

6 THE WITNESS: Just within the last  
7 week.

8 MR. BRISSET: And that will undoubtedly  
9 prevent the situation which I have described, or a  
10 ships anchor being taken to the waiting wall and then  
11 having to be taken out again because there is no pilot  
12 available?

13 THE WITNESS: Well, we trust so.

14 MR. JACQUES: Q. Question No. 16:  
15 Pilotage performed by District 2 pilots during pre  
16 and post navigation season. Whether Canadian pilots  
17 would be considered in the employment of the government  
18 during those periods?

19 A. No; not after the staff is closed,  
20 as you might say.

21 Q. They are off the payroll?

22 A. They are off the payroll; and after  
23 that they are considered to be free lance pilots;  
24 although we do continue to use the despatching  
25 facilities as required.

26 Q. What about their status at that  
27 time? Under whose jurisdiction would they come for  
28 disciplinary measures and registration and what not?

29 A. There wouldn't be any disciplinary  
30 measures, except, of course, again, so far as the





1 registration certificate is concerned. If they  
2 committed some heinous crime during that period the  
3 registration certificate could easily be withdrawn.

4 Q. Under the Great Lake Pilotage  
5 Regulations?

6 A. Under the Great Lakes Pilotage  
7 Regulations, yes.

8 Q. On which we cast some doubt.  
9 And they are despatched by the government despatcher?

10 A. This is right.

11 Q. And there is no limit on the number  
12 of trips to be made, or the rest period of ten hours  
13 between trips. They can go as they wish?

14 A. Yes; but if a number of them put  
15 their names down for this work they would, I would  
16 think, be taken in turn, or called in turn. There  
17 is nothing mandatory about this.

18 MR. BRISSET: Isn't it a fact that,  
19 in fact, the pilots run little risk of getting into  
20 difficulty during this period as they will be on board  
21 British Commonwealth lake ships and, therefore, will  
22 not actually be piloting?

23 THE WITNESS: It is true that they  
24 will be on commonwealth lake ships.

25 MR. LALONDE: I have listened,  
26 without objection, to a number of these statements  
27 by my colleague about these lake ships, and by the  
28 witness himself who has never set foot on such a ship  
29 for I don't know how many years, so I think that these  
30 are unwarranted statements. If they have evidence





1 then let them bring masters of commonwealth ships  
2 and put them in the box.

3 THE CHAIRMAN: It is not objectionable;  
4 it is just another statement.

5 MR. LALONDE: Well, I object to  
6 statements.

7 MR. JACQUES: Q. Has this type of  
8 work given any trouble to the Department. Have  
9 there been any reports that the work of the pilots  
10 pre and post season was not satisfactory?

11 A. Not so far as I am aware, no.

12 Q. Now, question No. 17: Sub-question  
13 (1) could be deleted because the documents have been  
14 filed already, and the opening part of the question  
15 should be read together with the second part of the  
16 question?

17 A. No thought has been given to  
18 distributing surplus earnings, as it is called, to  
19 ship owners or anybody else.

20 Q. I at least was under the impression  
21 that the operation was not meant to be something which  
22 would create a surplus, but that the tariff would be  
23 set just beneath the expenses?

24 A. Well, since we must have a uniform  
25 tariff for the United States it has turned out that  
26 there is a surplus.

27 Q. Nobody has requested that the  
28 surplus be dealt with other than as it is now dealt  
29 with, or otherwise than it is now dealt with?

30 A. Not so far as I know.







1 Q. Question No. 18, in regard to  
2 port pilotage in Toronto and Hamilton: When, and by  
3 whom, and in what manner, was the problem first  
4 raised with the Department?

5 A. May I just give you a narrative on  
6 this covering parts 1 and 2?

7 Q. Yes, please do.

8 A. Well, under the old sailing master  
9 system there was no question of port piloting on the  
10 Great Lakes. The sailing master joined the ship  
11 at Montreal, or, later, at Kingston, and was there to  
12 assist the master whenever he required assistance,  
13 and he stayed on board until the ship returned to  
14 Kingston, and sometimes to Montreal.

15 When the Shipping Federation decided  
16 to dispense with the employment of sailing masters on  
17 the open waters the masters of ocean ships still liked  
18 to have local assistance in and out of ports. The  
19 Toronto and Hamilton harbour commissioners made their  
20 own employees available for this purpose.

21 When the Great Lakes Pilotage legislation  
22 came into effect on May 1st 1961 a ship with no  
23 B certificate on board had to have, to assist the master  
24 when required, a registered pilot. The charge for  
25 the services of a registered pilot on the undesignated  
26 waters was \$50 per day, and this was intended to cover  
27 any actual piloting that the registered pilot might be  
28 called upon to perform as well as the time when he  
29 might be asleep crossing the lakes, or just standing by  
30 on board while the ship was loading or discharging.





1                   Some of the registered pilots, when  
2                   they were off Toronto or Hamilton, informed the  
3                   masters of the ships that they were not familiar with  
4                   the harbours and that local pilots were available.  
5                   The masters naturally took the hint, as they were bound  
6                   to do, but the Shipping Federation complained that this  
7                   was increasing the pilotage costs, and, of course,  
8                   it was.

9                   Q.    Was that the first indication you  
10                  had that there was a private pilotage system set up in  
11                  Toronto and Hamilton?

12                 A.    No; we had been aware of it from  
13                  the beginning.

14                 Q.    I see.

15                 A.    The matter was taken up with the  
16                  United States administrator because, generally speaking,  
17                  these offending pilots were American pilots, and  
18                  rather than try to impose penalties it was decided  
19                  to amend the tariff to provide for an additional 25  
20                  dollar payment for each occasion on which the  
21                  registered pilot docked or undocked a ship on arrival  
22                  or departure.   The phrase "when performed by the  
23                  pilot" was specifically included in the regulations  
24                  to make very clear that there would be no extra  
25                  remuneration if the registered pilot did not do that  
26                  job.

27                 Following this measure the pilots  
28                  suddenly became quite confident of their ability to  
29                  pilot in Toronto and Hamilton, and even became indignant  
30                  at the use of port pilots.





1                   The respective harbour authorities  
2           had by this time got to like having their own pilotage  
3           set up and kept it available for the use of ships  
4           having a B certificate on board.       This, in our view,  
5           was quite within the law, but the opinion on the  
6           American side was contrary.   We hold that if a ship  
7           has on board an officer with a B certificate then  
8           the master is free to employ, or not to employ, any  
9           extra assistance, and the person whom he so employs  
10          is not acting as a registered pilot.       The view of the  
11          United States Administrator is that the spirit of the  
12          memorandum of arrangements is being violated in that  
13          the arrangement envisaged was the performance of all  
14          pilotage services by registered pilots.

15                   This argument has not yet been resolved.  
16          It is, in fact, still under discussion, and Mr. Cumyn  
17          is, in fact, travelling today to have further discussion  
18          on the matter.

19                   Q.   And the present policy of the  
20          Department is not to interfere with these private  
21          pilotage services?

22                   A.   This has been the policy of the  
23          Department.   But these present discussions may make  
24          a difference.

25                   Q.   I see.       Now, question No. 18:  
26          Did you receive complaints from district 2 pilots with  
27          regard to the sanitary condition of certain ocean-going  
28          vessels?

29                   A.   This is No. 19.

30                   Q.   No. 19?







1                   A.    Yes; the pilots of district No. 2  
2    have complained about the occasional unsatisfactory  
3    nature of the accommodation provided on board ships.  
4    They have raised it at meetings in Ottawa during  
5    the winters, and, of course, we have been concerned.  
6    There have been similar complaints in the British  
7    Columbia district from time to time.    That is the only  
8    other district where pilots have to sleep on board.

9                   All we could do was to complain to the  
10   agents, and this has been done, and the Federation  
11   has tried to cooperate in rectifying this kind of thing.

12                  We feel that the Canadian Department of  
13   National Health and Welfare has no jurisdiction in  
14   this, but we have instructed the pilots, when they  
15   join a ship and they find a particularly obnoxious  
16   situation, they should immediately call the supervisor  
17   and he can say what action may be taken.

18                  MR. LALONDE:    When were these  
19   instructions issued to the supervisor?

20                  THE WITNESS:    Well, I could ask  
21   Captain Stevenson whether, this last winter...

22                  CAPTAIN STEVENSON:   Actually, I said  
23   I would take it up with the people in Montreal.

24                  THE WITNESS:    We did this after the  
25   pilots had mentioned it to us; we took it up with the  
26   Shipping Federation, and I think, at the same time,  
27   we told the supervisor to suggest to the pilots that  
28   if they should come up against a thing like this they  
29   should call the supervisor.

30                  Q.    One more question...





1 MR. BRISSET: Have you been able to  
2 obtain the specific names of the vessels concerned?  
3 I don't want to have them, but I am now wondering if  
4 you were given, by those pilots, the names of the  
5 ships that offended?

6 THE WITNESS: I don't think we got  
7 specific names from the pilots during our meetings,  
8 but this would always be available from the supervisor  
9 if a complaint were made to him; he would be aware  
10 of the particular case if the complaint were made  
11 immediately.

12 MR. BRISSET: In other words, the  
13 supervisor of the district concerned would have a  
14 record of the names of the vessels that complaints  
15 had been made against?

16 THE WITNESS: If the pilots ever  
17 reported to him, yes.

18 MR. BRISSET: But you are not aware of  
19 any names, so far as the Department is concerned?

20 THE WITNESS: I don't think so, Mr.  
21 Brisset. This is a matter we feel should be dealt  
22 with on the spot by the local supervisor who could  
23 always be in touch with the Shipping Federation.

24 MR. JACQUES: Q. One last question  
25 which does not appear in the series of questions.  
26 At page 14160 of the transcript Captain Watson agreed  
27 with counsel that a pilot, in an inebriated condition,  
28 taking a ship out of Chicago, was suspended for five  
29 days. This matter was brought up at the Ottawa  
30 hearing of 16th September, and the answer was deferred





1 until we dealt with the Great Lakes.

2 A. This is right. This is one that  
3 we expected Mr. Baxter would answer; but we do have  
4 the information here.

5 Q Then, would you please let us have  
6 it.

7 MR. MACGILLIVRAY: Isn't this the case  
8 that you discussed at some length yesterday?

9 THE WITNESS: No.

10 MR. JACQUES: The Department have  
11 prepared what appears to be copies of all the documents  
12 relating to this particular case, and we might file  
13 them in a bundle as exhibit 1414.

14 THE CHAIRMAN: And the description?

15 MR. JACQUES: I hesitate to mention  
16 the name of the pilot.

17 THE CHAIRMAN: Certainly.

18 MR. JACQUES: Well, I would say:  
19 Case of intoxication of a Canadian pilot aboard  
20 M.V. LOBIBIA, September 3, 1963.

21 --- EXHIBIT No. 1414: Bundle of documents  
22 re case of intoxication  
23 of a Candian pilot aboard  
24 M.V. LOBIBIA, September  
25 3, 1963.

26 MR. JACQUES: Q. Now we are moving  
27 into district No. 3, and before tackling the questions  
28 which have been filed I should like to show you exhibit  
29 1090 which is the pilot working rules prepared by the  
30 Department with regard to district 3. This exhibit  
was shown to Mr. Kuefner and he said he had never







1        seen it.        I wonder what use is made of these working  
2        rules?

3                    A.    This, apparently, Mr. Jacques,  
4        was a set of information given to the three Canadian  
5        pilots in district No. 3.

6                    Q.    Since they are working rules who  
7        had the duty to apply them?

8                    A.    They were assigned by the United  
9        States pool in district 3.

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1 Q. The Administrator of the Pool said  
2 he had never seen that.

3 A. I don't think it would be necessary.  
4 I haven't looked at this closely, but I take it that  
5 this just would put them -- the Canadian pilots --  
6 aware of the system that was being followed by the Pool.

7 Q. But it is not the system which is  
8 followed by the pool?

9 A. No, looking at this I don't think I  
10 had better comment any more on it because, frankly, I  
11 don't see how they could ---

12 THE CHAIRMAN: I think we will skip  
13 this question and maybe Captain Seeley could look at the  
14 matter and find out.

15 THE WITNESS: Of course it was  
16 necessary to inform the Canadian pilots where they fitted  
17 in.

18 MR. JACQUES: Perhaps Captain Seeley  
19 can check on that, my lord.

20 THE CHAIRMAN: That is right.

21 MR. JACQUES: This is dated 1962.  
22 There might have been changes, but I note from this  
23 document the base of operation for pilots registered in  
24 District 3 was to be Fort William-Port Arthur, and  
25 in fact we know it was not the case. The base of  
26 operation varies throughout the year.

27 THE CHAIRMAN: And it has been filed.

28 MR. JACQUES: It has been filed as  
29 Exhibit 1090 in St. Catharines.

30 Q. Now, Question No. 1 with respect to





1 District No. 3 has been answered already, so we may  
2 move to Question No. 2. What contacts are kept with  
3 the Canadian pilots after their appointment?

4 A. They were told I believe at that time,  
5 but certainly since, that they could use the port warden  
6 at the Lakehead as liaison. And that at any time  
7 they were free to pick up the telephone and call us in  
8 Ottawa. This of course was understood. It was a  
9 rather difficult situation because three Canadians were  
10 working there, taking their instructions from an American  
11 pool, and we didn't have a Canadian despatching office  
12 there. It was just a matter of allowing them to work  
13 there in order to keep the Canadian stake in the  
14 district, as you might say.

15 Q. But there is no officer from the  
16 department going to the field and checking on their  
17 treatment at the hands of the Americans, and their  
18 welfare and what not?

19 A. Yes, Captain Seeley did make occa-  
20 sional visits to the Lakehead and tried to see those  
21 pilots if he could. As I say, if they had felt that  
22 they were being abused in any way, they were free to  
23 pick up the telephone and call for advice.

24 MR. LALONDE: Did Captain Seeley  
25 effectively meet with them when he went over there?

26 THE WITNESS: Captain Seeley will be  
27 in the box.

28 MR. LALONDE: Then I will keep my  
29 question for Captain Seeley.

30 MR. JACQUES:







1 Q. Question No. 3, did the American  
2 Pilot Association at Duluth seek the concurrence of  
3 the department before hiring their despatcher at the  
4 Lakehead?

5 A. No. The present despatcher now is  
6 Mr. Elliot Dawson, Thunder Bay Marine Services, as  
7 was given in evidence last week or this week.

8 Q. Didn't you think you should be con-  
9 sulted with respect to the choice of a despatcher in  
10 Canadian ports?

11 A. No. I hardly think so. This is an  
12 employee of the pool, and until we get a despatching  
13 office there on the Canadian side, I don't think that  
14 we could argue about their choice of a despatcher  
15 unless, of course, it appeared to us that he was not  
16 doing the job properly.

17 Q. Question No. 4, was there any dis-  
18 cussion between the American pilots at Duluth and/or  
19 with the Great Lakes Pilotage Administrator with the  
20 department concerning the allocation of costs to be  
21 charged to the department for the operation of the  
22 district?

23 Now, we know that there has been  
24 discussion and meetings and reports have been filed,  
25 unless you want to add something to what is contained  
26 in the audit reports?

27 A. I have nothing to add there, but any  
28 discussion has been through the Administrator on the  
29 American side.

30 Q. Question No. 5, have Canadian District





1 3 pilots done any pilotage prior or after the naviga-  
2 tion season?

3 A. Well, they were kept on pay until  
4 they were no longer required.

5 Q. Do they do any pre-season or post-  
6 season pilotage in District 3?

7 A. This pre-season and post-season --  
8 this term needs to be explained. As long as there is  
9 navigation the season is not closed, but in District  
10 2 when it comes to a certain date the traffic is only  
11 sporadic, very limited in amount, and a large staff  
12 is not necessary in District 2. So there is a deadline  
13 set, a date set on which the general operation is con-  
14 sidered to have closed, and after that ---

15 Q. The pilot is off pay?

16 A. That is right. The pilots are off  
17 pay, and that is what you referred to as post-season  
18 in District 2. Now, in District No. 3 we have kept  
19 on these pilots as long as they were required.

20 Q. How long? How many months a year  
21 would they work?

22 A. Well, in 1962 Pilot Hanrahan was  
23 kept on until December 14th.

24 Q. From what date?

25 A. From the 18th of April. In 1963  
26 he was kept on until December 10th.

27 Q. Yes? And the others?

28 A. Pilot Harrison in 1962 was kept on  
29 until November 30th, and in December, 1963, until  
30 December 10th.





1 Pilot Mallette, in 1962, was kept on  
2 until November 30th, and in 1963, owing to the mis-  
3 understanding that was brought out in evidence, he was  
4 paid off on November 25th.

5 Q. Who decides when to pay them off?

6 A. We would have to decide that in  
7 Ottawa.

8 Q. When you don't pay them off on the  
9 same date what guides your choice?

10 A. Well, we learn from the pool what is  
11 the last day on which they were employed, and from  
12 that date on their holiday pay and so on starts.

13 Q. Do you mean to say that you don't  
14 give the cut-off date? It is done by the pool?

15 A. Yes, I would say this is so. They  
16 use them as long as they need them.

17 Q. So the pool in the case of Harrison  
18 decided on November 30th that his services were no longer  
19 required, but kept on Pilot Hanrahan?

20 A. Hanrahan, I understand, had expressed  
21 his desire to stay on longer.

22 Q. And as of that date, inclusive or  
23 exclusive, I don't know, the holiday pay starts?

24 A. Yes, this is the procedure, yes.

25 CROSS-EXAMINATION BY MR. LALONDE:

26 Q. So that if I understand you in  
27 District 3 you consider that you have not too many  
28 people there, only three, and the best thing is to  
29 keep them on the payroll as long as they are needed;  
30







1 as long as they will make a trip. While in District 3  
2 you try to shove them off as soon as you can at the end  
3 of the season to save money?

4 A. In District 2?

5 Q. Yes.

6 A. We have no right to employ men beyond  
7 the time when they are needed.

8 Q. Yes, but I understand that in District  
9 3 you take this as meaning these men will stay on the  
10 payroll as long as they will make a trip while in  
11 District 3 they are cut off at a certain date whether  
12 there are more trips or not -- in District 2, I am  
13 sorry, they are cut off at a certain date. For  
14 instance, December 1st or December 5th, and occasional  
15 additional trips after that would be on their own?

16 A. Yes, but they still express their  
17 preference whether they want to work or not.

18 Q. Yes, but they will not be kept on the  
19 payroll?

20 A. No.

21 Q. Even if you have a large surplus at  
22 the end of the year you will not keep them as long on  
23 strength?

24 A. Not unless they are working.

25  
26 DIRECT EXAMINATION BY MR. JACQUES:

27 Q. Question No. 6, were you consulted  
28 during the elaboration of the working rules for  
29 District 3?

30 A. No, we were not consulted in advance.





1 Q. Did you not feel slighted?

2 A. No. It was understood that our  
3 Canadian pilots would fit in with the working rules  
4 followed by the Americans.

5 Q. Question No. 7, were representations  
6 made by the department to Washington or Duluth to have  
7 Canadian pilots stationed at the Lakehead?

8 A. Yes, through Captain Meschter we did  
9 request that this be done, and as a result one Canadian  
10 pilot, as you heard in evidence this week, is now  
11 stationed at the Lakehead except for short periods.  
12 There have been no complaints this year as far as we  
13 know.

14 Q. When you received a request, did  
15 they make a request for one or three pilots? When  
16 you received a request to station a Canadian pilot  
17 at the Lakehead, how many pilots were requested to be  
18 stationed there?

19 A. "They", Mr. Jacques? This is our  
20 request.

21 Q. Oh, it is at your request?

22 A. Yes.

23 Q. How many pilots did you request to  
24 be stationed at the Lakehead?

25 A. We wanted to assure that there  
26 would be a pilot available at the Lakehead all the time  
27 if possible.

28 Q. Just one?

29 A. As long as there was one there to  
30 do the job.





1 Q. One of the Canadian ones?

2 A. Yes.

3  
4 CROSS-EXAMINATION BY MR. BRISSET:

5 Q. Is the one stationed at the Lakehead  
6 the same one throughout the whole season or do the three  
7 Canadian pilots alternate?

8 A. They alternate. They rotate, and  
9 of course they also have three days off per month now.

10 Q. Do they rotate at short intervals or are  
11 they left for one-third of the season each?

12 A. I am told that none are left there for  
13 longer than one month.

14 DIRECT EXAMINATION BY MR. JACQUES:

15 Q. Question No. 8, would you explain the  
16 advice given the Lakehead Harbour Commissioners in your  
17 letter of October 10th, 1962, in respect to port  
18 pilotage?

19 A. Could I see this letter, please?  
20 Thank you. Oh, yes, I recall now the Commissioners  
21 at the Lakehead were having people complain to them  
22 concerning pilotage, and the Harbour Commissioners had  
23 no responsibility in this matter.

24 You are asking in the question here  
25 was the policy of the department different in so far as  
26 port pilotage at the Lakehead was concerned? Yes, the  
27 policy was different because this had been carried out  
28 at the Lakehead, this port pilotage, before the district  
29 was formed, before District 3 was formed, and before  
30 it became active, and the Harbour Authority had never







1 had anything to do with pilotage. It was operated by  
2 a private concern. We were aware of this.

3 Q. That is why the change in policy with  
4 respect to private pilotage? In Toronto and Hamilton  
5 it was operated by the Harbour Commissioners and at the  
6 Lakehead it was strictly private service operated by  
7 an agency?

8 A. Yes. Perhaps I should correct myself.  
9 There is no real change in policy. We still feel that  
10 a B certificate man could hire whom he liked, but  
11 certainly as far as registered pilots are concerned,  
12 we registered two pilots.

13 This was purely to advise the Harbour  
14 Commissioners if any complaints were made to them they  
15 should not attempt to deal with them but to refer them  
16 to the department.

17 THE CHAIRMAN: Yes, Mr. Brisset?

18  
19 CROSS-EXAMINATION BY MR. BRISSET:

20 Q. In other words, captain, just as is  
21 done in the harbours of Toronto and Hamilton it would  
22 be quite proper for the harbour authorities at the  
23 Lakehead to establish their own pilotage services to  
24 serve ships with B certificates who might want to use a  
25 port pilot?

26 A. Whether it would be proper or not is  
27 in dispute, Mr. Brisset. We say that a ship with a  
28 B certificate employing one of these private pilots,  
29 as you might say, is not committing an infraction of the  
30 law, but I would hesitate to suggest to any new harbour





1 commissioner to set up a pilotage system because I  
2 don't think the situation will stay as it is for very  
3 long.

4 Q. If the department is of the view that  
5 it is not illegal to do it in Toronto, the department  
6 is undoubtedly still of the same view if it is being  
7 done in the Port of Port Arthur or Fort William?

8 A. At present, yes.

9 Q. Yes, so am I right in assuming that  
10 Mr. McCuaig when he testified here, or his assistant, I  
11 am not too sure, to the effect that he had been advised  
12 by the department that it would be illegal for him to  
13 establish a port pilotage system misunderstood the  
14 advice of the department?

15 A. I think he must have.

16 Q. Were you present when he testified in  
17 Toronto and referred every five minutes to the law as  
18 he was told it was by the department preventing him from  
19 doing this very thing?

20 A. Mr. McCuaig?

21 Q. I forget if it was Mr. McCuaig or  
22 some ---

23 A. I am not aware that they wished to  
24 set up a pilotage service. It was being operated by  
25 private people.

26 THE CHAIRMAN: Mr. McCuaig gave  
27 evidence in Toronto on the 17th of March.

28 MR. BRISSET:

29 Q. I might read to you the evidence of  
30 Mr. McCuaig on this point, at page 14880 of the  
transcript.





1 "Q. Am I correct in understand-  
2 ing, Mr. Cuaig, that following this meeting  
3 of October 4th, 1962, you received a  
4 letter from Mr. Gordon W. Stead,  
5 Assistant Deputy Minister of Marine,  
6 dated October 10th, 1962, copy of which  
7 letter is included in your report,  
8 Exhibit 1085?

9 "A. This letter does not refer  
10 to the meeting of October 4th.

11 "Q. I see that it refers to a  
12 letter of September 28th.

13 "A. It refers to a meeting of the  
14 Canadian Port and Harbour Association  
15 that took place in Port Alberni approxi-  
16 mately mid-September, 1962, at which  
17 certain discussions, not formally, were  
18 held amongst representatives of all  
19 the ports of Canada. Pilotage was  
20 discussed, and I requested clarification  
21 of Mr. Walter Manning, Director of  
22 Marine -- I think he is Director of  
23 Marine Works, is he not?

24 "Q. Yes.

25 "A. Specific in my request for  
26 clarification was whether or not the  
27 Department of Transport was fully respon-  
28 sible for pilotage, and whether or not  
29 the Lakehead Harbour Commissioners had  
30 any jurisdiction over pilotage within our







1 area. Now, when I asked about juris-  
2 diction, I am speaking specifically of  
3 discipline, operating procedures of the  
4 pilots. I am not speaking of things  
5 that come within our control such as we  
6 talked about yesterday, if a pilot was  
7 speeding or something like this and we  
8 charged the vessel, whether the pilot  
9 was responsible or the masters and owners.  
10 This was clarified in this letter.

11 "Q. In other words, this letter  
12 concerned the advice you had already  
13 been given that the Department of Tran-  
14 sport had full authority and that you  
15 should not get involved in pilotage?

16 "A. Yes."

17 Mr. McCuaig was mistaken as to the advice he would have  
18 received from the Department of Transport?

19 A. No, I do not think he was mistaken.  
20 He was advised not to get involved in pilotage and any  
21 wise man would accept that advice.

22 Q. So the advice that was given to  
23 Mr. McCuaig was not advice on a point of law but advice  
24 on a practical point. In other words, he was told:  
25 "Don't get involved in this type of activity."

26 A. He was advised, as I understand your  
27 reading of the evidence there and of that letter, that  
28 he had no jurisdiction over the -- I take it the  
29 registered pilots, -- which he did not, of course.

30 MR. MACGILLIVRAY: But there was





1 nothing there to say he was advised that he could not  
2 set up, could not employ pilots, in the same way as  
3 Toronto.

4 MR. JACQUES: I am sorry. I might  
5 read from the evidence of Mr. McGuaig at page 14903:

6 "My lord, I don't know whether  
7 this would be of any importance or not,  
8 but Mr. Smith has asked me, I believe,  
9 twice a question and I don't know whether  
10 I am clear in my answer or not.

11 "The question specifically was  
12 whether or not the Lakehead Harbour  
13 Commissioners could handle pilotage  
14 at the rate set. I may have not been  
15 too clear. I said that under the  
16 present legislation we could not; but,  
17 as a supposition, there is no reason in  
18 my mind why local pilotage couldn't be  
19 handled by the Commission without get-  
20 ting into all the details of costs,  
21 etc. But there is no question but  
22 what it would be workable.

23 "But I want to get across specifi-  
24 cally that under present legislation we  
25 have been told emphatically that we  
26 are breaking the law if we enter into  
27 this, No. 1; and, No. 2, we don't wish  
28 to enter into something where there are  
29 two of us competing, with the Board of  
30 Transport competing with ourselves.





1 This is sort of a ridiculous situation.

2 "Mr. Smith asked the question  
3 specifically, I believe, whether or not  
4 we should handle pilotage. If con-  
5 ditions were such within our own juris-  
6 diction -- it is the old story; any-  
7 thing can be done if you wish to do it."

8 Mr. McCuaig was quite emphatic when he said he was  
9 emphatically told that he was breaking the law if he  
10 went into the pilotage business.

11 THE WITNESS: I do not know who  
12 told him that exactly. Perhaps Mr. Macgillivray can  
13 clear this up.

14 MR. MACGILLIVRAY: Of course, there  
15 are two ways of reading the term "going into the  
16 pilotage business". It seems inconceivable to me  
17 that anyone in the Department of Transport, my lord,  
18 would tell Mr. McCuaig that he could not do what  
19 was already being done in Toronto and Hamilton, that  
20 that would be breaking the law; but I feel sure that  
21 if he asked the questions of a sort that Mr. Brisset  
22 just read out, questions on discipline and . . .

23 The sentence I am speaking of is this: "Now when I  
24 asked about jurisdiction I am speaking specifically  
25 of discipline, operating procedures of the pilots."

26 Obviously it seems quite clear that  
27 there is nothing in the Harbour Commissioners Act that  
28 would authorize them to get into the field of endeavour  
29 of controlling pilots who come into their harbour.

30 THE SECRETARY: How about Toronto?







1 MR. MACGILLIVRAY: I think it has  
2 been made clear, my lord, that in Toronto there is no  
3 bylaw enacted under the Toronto Harbour Commissioners  
4 Act respecting pilotage as such. The only bylaw they  
5 have enacted is one describing the fees to be charged  
6 if they provide a pilotage service to a ship.

7 THE CHAIRMAN: For the use of their  
8 employees?

9 MR. MACGILLIVRAY: That is it, my  
10 lord. So certainly there is nothing in their Act  
11 that allows them to legislate on the subject of  
12 pilotage. But in their Act they are certainly en-  
13 titled to provide harbour services, which they consider  
14 pilotage to be.

15 THE SECRETARY: We will check that,  
16 my lord.

17 MR. JACQUES: My lord, this con-  
18 cludes our series of questions on Exhibit 1291. The  
19 last one has been answered already by the accountants  
20 from the finance section.

21 THE CHAIRMAN: Except one that Mr.  
22 Macgillivray has to answer at page 7, Question 4 (b).  
23 I interrupted you there. We will reserve that for  
24 Mr. Macgillivray. I think it has been answered  
25 some other way, but it was just in abeyance.

26 MR. JACQUES: What is the source  
27 of authority of the Port Weller supervisor to conclude  
28 these joint international agreements, the joint working  
29 rules?

30 MR. MACGILLIVRAY: I am afraid I





1 have not briefed myself on this. I would be prepared  
2 to put in a piece of paper on it, if you wish.

3 THE CHAIRMAN: That will be fine.  
4 We have Captain Seeley also.

5  
6 CAPTAIN C. M. SEELEY, sworn

7 THE CHAIRMAN: Question No. 2.

8  
9 DIRECT EXAMINATION BY MR. JACQUES:

10 Q. Are you now in a position to answer  
11 on the working rules already filed as Exhibit 1090?

12 A. Well, as I remember the working rules,  
13 as they are called here, these were some rules that were  
14 made in the pilotage office in Ottawa at the same time  
15 that the rules for District No. 2 were compiled. I  
16 do not think that they ever received any official  
17 sanction and as I remember this particular copy, at  
18 least one copy was given to Pilot Mallette before he  
19 went to the Lakehead. He was in the office in Ottawa  
20 and a copy of this was given to him as sort of infor-  
21 mation.

22 I do not believe -- in fact I am  
23 quite sure -- that he was never told that these were  
24 the official working rules. But he did not know any-  
25 thing about the operation of pilotage in the district  
26 at that time, and this was given to assist him to  
27 learn something about it.

28 Q. So they have no official value?

29 A. No, not to my knowledge.

30 Q. Thank you. Now would you tell us





1 about the visits to the District 3 pilots?

2 A. Well, I have visited the Lakehead  
3 and Duluth on about four occasions, I would think.

4 Q. All the same year or not?

5 A. No, in two different years. I have  
6 not been up this year but in 1962 and 1963 I was, and  
7 that included the Soo and the Lakehead and Duluth.  
8 During the times that I was up there, of course, I  
9 endeavoured to contact any of the Canadian pilots in  
10 either of these places.

11 Q. Were you successful?

12 A. I did contact Pilot Harrison in  
13 Duluth and Pilot Hamrahan in the Lakehead. I never did  
14 see Pilot Mallette after I saw him when he left Ottawa  
15 in 1962.

16 Q. What was discussed when you inter-  
17 viewed these pilots?

18 A. Various problems about the amount of  
19 travelling, perhaps making out travel claims and  
20 various things of this sort. I do not recall any  
21 particular things.

22 Q. Do you recall a complaint about dis-  
23 crimination in despatching?

24 A. Definitely not.

25 Q. You definitely do not recall?

26 A. No, definitely. They did not com-  
27 plain about being mistreated in any way.

28 MR. JACQUES: Thank you.

29 THE CHAIRMAN: Are there any other  
30 questions?







CROSS-EXAMINATION BY MR. LALONDE:

Q. Did you meet the Canadian pilots in District 3 when you visited that district? This question was asked.

A. Yes.

MR. JACQUES: The answer was Yes, on two occasions in 1962 and two occasions in 1963. However, on neither occasion did he meet Pilot Mallette. ---The witness withdrew.

THE CHAIRMAN: I think, Mr. Lalonde, that you have some documents to be filed?

MR. LALONDE: Yes, my lord. As a matter of fact I am expecting some any minute. I hope the door will open soon.

THE CHAIRMAN: That is all right.

MR. LALONDE: I can table some of them now. I have requested, my lord, from the St. Lawrence Seaway a compilation showing the inland vessels which passed through St. Lambert Lock during 1963. This calculation has been provided to me. It lists the names of the ships and the number of passages they have made during the year 1963. I could file that document with the letter which was sent to me by Miss D. I. Robertson, dated October 9th, 1964. We could file this as Exhibit 1415.

THE CHAIRMAN: We are filing that.

---EXHIBIT NO. 1415: Calculation by St. Lawrence Seaway Authority of inland vessels passing through St. Lambert Lock during 1963.





1 MR. LALONDE: I might add in this  
2 connection, my lord, that I had a quick analysis made  
3 of the figures provided and the ships were counted  
4 as far back as the CARL SCHMEDEMAN on this list. The  
5 others were excluded because they were tugs or tows,  
6 which made one passage only, or two passages at most  
7 during the year. We obtained a total number of  
8 transits of 3,038 by 225 ships for an average of 13.5  
9 trips.

10 However, thirteen ships in that  
11 category made more than forty trips a year. Some went  
12 as high as eighty trips a year, these being mainly small  
13 tankers travelling between Toronto and Montreal. They  
14 are small vessels. If one excluded the thirteen ships  
15 that have made more than forty trips -- that is, they  
16 made 780 trips -- we are left with a total of 2,250  
17 transits for 211 ships, which makes an average of 10.7  
18 transits. All the time when I refer to trips here  
19 it means transits, one passage. There were 10.7  
20 average transits inland ships during 1963.

21 I would like to file in addition a  
22 bundle of documents. I could put the president of  
23 each corporation on the stand in connection with these  
24 documents, but I do not think, my lord, it would serve  
25 much purpose. If you feel you need to have the  
26 evidence of the presidents of the corporations I will  
27 gladly make them available.

28 THE CHAIRMAN: Thank you.

29 MR. LALONDE: I have asked the  
30 president of the Corporation of the Montreal Harbour





1 Pilots and then of the St. Lawrence River and Seaway  
2 Pilots -- that is, Cornwall District -- and the Upper  
3 St. Lawrence Pilots, to prepare a detailed schedule of  
4 the total workload of a pilot in their district. I  
5 have asked for that only about a month ago and they  
6 have gone to their members and tried to find a member  
7 who would have kept a detailed log since the beginning  
8 of the year.

9 In each group one or a few pilots  
10 are in the habit of keeping such a log, with the result  
11 that they could find in each case one member. The  
12 member was taken at random. As you know, all pilots  
13 are on a tour-de-rôle.

14 THE CHAIRMAN: Yes.

15 MR. LALONDE: With the result that  
16 over a long period all the workload is pretty equivalent  
17 from one pilot to the other provided they stay at work  
18 on the tour-de-rôle. So that in the case of the  
19 Montreal Harbour pilots I have the information con-  
20 cerning Pilot J. J. Menard from April, 1964, to the  
21 end of September, 1964.

22 THE CHAIRMAN: That will be filed  
23 as Exhibit 1416.

24 ---EXHIBIT NO. 1416: Detailed information con-  
25 cerning workload of Pilot  
26 J. J. Menard from April,  
1964 to September, 1964.

27  
28 MR. LALONDE: That document is signed  
29 by Captain Menard on each sheet and certified as being  
30 in accordance with the information contained in his







1 own log book. We have inscribed on these documents  
2 the name of the ship, the date, the time the pilot was  
3 called, the time he boarded the ship, the time he  
4 sailed and the moveage and the time he arrived home  
5 after the moveage, after he was back home when the  
6 moveage was completed.

7 THE CHAIRMAN: Yes. The time he  
8 was called though will not show the time he left home?

9 MR. LALONDE: No, my lord; this  
10 will not show. It shows only the time he was called  
11 for the ship.

12 THE CHAIRMAN: So he might have been  
13 called two hours, three hours before, unless we put  
14 an arbitrary time for his leaving home to reach the  
15 ship.

16 MR. LALONDE: In effect in the case  
17 of the Montreal Harbour you will find that the time  
18 of calling is pretty standardized. It is a certain  
19 number of -- I will not say hours, but probably minutes,  
20 an hour and a half or an hour, from the time they are  
21 called to go to the ship. And one would have to take  
22 into account time to dress and drive to the ship, which  
23 in the case of Montreal is quite standard. I have  
24 asked that all that information be put on a -- what  
25 do you call this?

26 THE CHAIRMAN: A graph.

27 MR. LALONDE: On a graph for each  
28 month.  
29  
30





1                   You have the same information as what  
2 is contained on the documents, which gives the hours  
3 and the dates; and a different indication has been put  
4 for each type of activity - a different symbol --  
5 and the symbol appears at the bottom of each page.

6                   That would be Exhibit 1416. I would  
7 describe it as a worksheet for pilot Minard for that  
8 period, and graph analysis.

9 --- ADDITION TO

10       EXHIBIT No. 1416

Worksheet of Pilot Minard,  
together with graph  
analysis.

11                   MR. LALONDE: I would like to file  
12 similar information for the district of Cornwall.  
13 The name of the pilot is Watier, from April 1964 to  
14 the end of September 1964. And, My Lord, I don't think  
15 I need elaborate. The information is pretty clear.

16 ---ADDITION TO

17       EXHIBIT No. 1416:

Worksheet for Pilot  
Watier, together with  
graph analysis, for  
the period April 1964  
to the end of September 1964.

18                   MR. LALONDE: And similar information  
19 is provided for the district of Cornwall. The name  
20 of the pilot is Rene Chaput; and it is from the month  
21 of April 1964 to the 7th of October 1964.

22 --- EXHIBIT No. 1417:

Worksheet of Pilot Chaput,  
together with graph analysis,  
for the period April 1964  
to 7th Oct. 1964.

23                   I would like to point out that in the  
24 case of Kingston pilotage district, they don't have  
25 it any more, but up to then, where they had it, you  
26 will see that it was in circulation at one time.





1                   So far as the rest of the information  
2 is concerned I only need to point out that there is  
3 one trip on Lake Ontario and it is shown on this record  
4 here (indicating).

5  
6 --- EXHIBIT No. 1418: Statement of workload, with  
7 graph, of a Kingston Pilot

8                   In the case of the last document, so  
9 far as the return to home when the pilot was transferred  
10 from one station -- where he arrives, let us say, at  
11 Kingston until this pilot had returned home -- that is,  
12 Cornwall -- we didn't have that specific information  
13 in the log book of the pilot boat, and what Captain  
14 Bissonet did was that he took the first train back home  
15 according to the hours and he returned the pilot home.

16                   THE CHAIRMAN:       Yes; all right.

17                   MR. LALONDE:       I was also asked, My  
18 Lord, to file the original of the agreement signed  
19 by the Minister of Transport on October 13, 1962. I  
20 have had a thorough check in my office and I found the  
21 envelope, but the envelope was empty. I presume that  
22 this document was somehow mislaid at the time of the  
23 preparation of the Federation on a St. Lawrence Pilotage  
24 basis.

25                   However, I am in a position to state  
26 emphatically that the document was effectively signed  
27 and it was a due document on the paper of the Minister  
28 of Transport. If I ever find it I will mail it to  
29 the Commission.

30                   THE CHAIRMAN:       We will allow secondary







proof!

1  
2 MR. LALONDE: I also had to provide  
3 the Commission, if I remember well, with specific  
4 instances of delays in getting action on certain  
5 requests. I have not had time myself to complete  
6 all that, although my impression is that we have  
7 had some evidence already, and that Captain Slocombe  
8 has very well explained how these things happened  
9 sometimes. But this is all part of the information  
10 contained in the Department of Transport's files, and  
11 I will get that information tabulated and mailed to  
12 the Commission and all parties.

13 THE CHAIRMAN: And with reference to  
14 the dates and the pilot's number, so that it could be  
15 easily verified, if necessary.

16 Mr. LALONDE: I will try to provide  
17 the file number so that the Department can provide it  
18 themselves.

19 I think there was an answer which  
20 indicated that there was no file number -- an un-  
21 numbered letter.

22 I shall leave this to Captain Slocombe,  
23 if I may.

24 Captain Slocombe, did you get information  
25 that a ship called the "POSEIDON had an accident on  
26 October 9th or 10th of this year in the Welland Canal,  
27 and this was a deep-sea ship which was allowed in  
28 without a pilot?

29 THE WITNESS: No; so far as I know  
30 we haven't received any information on that, Mr. Lalonde.





1 When was this?

2 MR. LALONDE: October 9th or 10th  
3 this year. It was the night of the 9th. I am  
4 informed that it was a very windy night and that the  
5 pilot would not go out and pick up the ship because it  
6 was too windy and the master decided to proceed in  
7 any way and proceeded as far as the Port Weller pier,  
8 and there was caused damage.

9 I am informed that the ship finally  
10 picked up a pilot, having suffered damage at Port  
11 Weller pier, as I say -- Lock 7 -- and then took a pilot  
12 and went to Cleveland but the damage was so severe  
13 that the ship had to come back to Port Weller dry dock  
14 for repair.

15 THE WITNESS: The next time he will  
16 take a pilot, no doubt!

17 MR. LALONDE: You are not aware of that?

18 THE WITNESS: No.

19 MR. BRISSET: Or he will wait for  
20 the wind to abate.

21 MR. LALONDE: Now, I have had to ask  
22 Captain Slocombe a lot of questions and some he didn't  
23 find too nice sometimes. I would like to state  
24 quite emphatically that so far as Captain Slocombe  
25 is concerned I have never wished to put in doubt at  
26 any moment either his personal integrity or his good  
27 faith in his relations with the pilots.

28 There is one thing certain and that is  
29 that we had differing views on occasions on many  
30 problems, but we knew, with Captain Slocombe that,





1 whatever differences of opinion there were, they were  
2 honest differences of opinion, and I wouldn't like to  
3 leave the impression here that any of the questions I  
4 have asked would be a reflection either upon his own  
5 integrity or his devotion to his duty during the many  
6 years he has been in pilotage.

7 THE CHAIRMAN: Well, that is very  
8 kind.

9 THE WITNESS: Thank you, sir.

10 MR. BRISSET: If I might impose on  
11 the Commission's time for two minutes...

12 THE CHAIRMAN: Unless you want to  
13 adjourn until tomorrow morning!

14 MR. BRISSET: ...in the brief of the  
15 Shipping Federation on the Great Lakes, in connection  
16 with the recommendation that the Great Lakes basin be  
17 divided into two spheres of operations, we gave some  
18 illustrations of differing interpretations of the  
19 regulations by the two authorities, and I would like to  
20 file a file of documents containing further illustrations  
21 of divergent interpretation of the regulations.  
22 There is one in particular which involves the case of  
23 the A & T MERCURY which sailed from Toronto to proceed  
24 to Hamilton during the spring of this year. The  
25 pilot boarded the vessel at 1800 hours at night;  
26 the vessel only sailed at 2130 hours, went to anchor  
27 in the harbour limits and then proceeded from there,  
28 two hours later, for Hamilton, anchored upon arriving  
29 within the limits at Hamilton and then proceeded to her  
30 berth; the total time on board of the pilot being







1 from 1800 hours on the 25th of May to 8.45 the  
2 following day in the morning. I should point out  
3 that the ship did not have a B certificate and  
4 therefore the pilot who boarded her was an inter-lake  
5 pilot. The charge made to the vessel involved three  
6 hours' detention at Toronto, 4 movages at \$25 each --  
7 being from the berth to anchor in Toronto, to anchor  
8 out at sea, and the same thing in Hamilton -- plus  
9 travelling expenses. The administrator ruled that  
10 only 2 movages should be charged but maintained, as  
11 it was an American pilot, the charge for detention,  
12 in spite of the case made by the shipowners that this  
13 was undesignated water. Of course, in addition to  
14 all the charges the \$50 per day had been charged.  
15 The administrator in the United States ruled that the  
16 detention should be paid and was applicable, while the  
17 Department of Trasnport took a contrary view.

18 We have a number of cases in this file  
19 showing a similar discrepancy between...

20 MR. LALONDE: I am informed that  
21 the charge was so much that the ship went bankrupt,  
22 and there is doubt that the amounts claimed were  
23 ever paid.

24 MR. BRISSET: That is true, My Lord.  
25 The ship, after this, was seized and sold.

26 We were also asked to give illustrations  
27 of double detention at St. Lambert Lock in the light of  
28 the recent amendment to the bylaw; that is, double  
29 detention in respect of the harbour pilot who is on  
30 board the ship at the waiting wall and detention on





1 the part of the seaway pilot who is waiting for that  
2 ship a few hundred yards further up the river.  
3 Unfortunately, I don't have all this with me tonight;  
4 it is still at the hotel. I didn't expect that we  
5 would finish tonight. I would like permission to file  
6 that later on.

7 MR. LALONDE: Except that I object very  
8 strongly -- since my friend is strong on semantics I  
9 will be strong on semantics, too -- and I object to  
10 the interpretation that the charge at St. Lambert Dock  
11 by a Montreal harbour pilot is detention. It is  
12 a charge for work performed.

13 MR. BRISSET: Perhaps we could give it  
14 a number now.

15 --- EXHIBIT No. 1420 (To be filed): Document containing  
16 examples of alleged  
17 double detention  
at St. Lambert Lock.

18 MR. LALONDE: Would this exhibit show  
19 why there was detention in the sense of why there was  
20 the delay in its departure at Montreal harbour, or  
21 what was the reason for the delay?

22 MR. BRISSET: In the case of the one I  
23 have here it will show why there was detention.  
24 There was an exchange of correspondence on the topic  
25 between the shipowners concerned and the Department.  
26 The shipowners pointed out that the ordering of the  
27 Cornwall pilot was not done by them but rather was  
28 done by the pilotage despatcher, and the answer of  
29 the Department on this was to the effect that it was  
30 quite often very difficult to order a Cornwall pilot





1 out so that he will not be delayed in boarding a ship,  
2 because the despatcher is quite often unaware of the  
3 delays that may occur in the Seaway.

4 Finally, My Lord, as Exhibit 1421 I  
5 would like to file an exchange of correspondence  
6 between the Shipping Federation of Canada and Mr.  
7 Alan Cumyn, the Director of Marine Regulations,  
8 Captain A.T. Meschter, the Great Lakes Pilotage  
9 Administrator, with copies to the Minister of Transport  
10 in Canada and the Secretary of Commerce in the United  
11 States, having to do with the delays encountered this  
12 year in district No. 2. Again, I must say I do  
13 not have the complete correspondence. The replies of  
14 Mr. Meschter and the Secretary of Commerce are at the  
15 hotel.

16 THE CHAIRMAN: I thought you were  
17 going to say that they hadn't arrived yet.

18 MR. BRISSET: So we will undertake to  
19 complete this exhibit.

20 --- EXHIBIT No. 1421: Exchange of correspondence  
21 between the Shipping  
22 Federation of Canada and  
23 Mr. Alan Cumyn, the  
24 Director of Marine Regulations  
Captain A.T. Meschter, the  
Great Lakes Pilotage  
Administrator, etc.

25 THE CHAIRMAN: Are there any further  
26 questions? Are there any further topics, or any  
27 other matters?

28 MR. JACQUES: I have no further questions,  
29 and I wish to thank the officers of the Department of  
30 Transport for their cooperation, and also Mr.







1 Macgillivray for his help to us.

2 MR. BRISSET: And we join in this.

3 THE CHAIRMAN: So this concludes our  
4 public hearings.

5 The door is not closed altogether.  
6 If it is necessary to have something further then we  
7 will have it, but at present it would seem that we  
8 are finished. We still have our pleadings in January,  
9 as I mentioned.

10 The pleadings will be here in this  
11 building. We don't know which room exactly, as yet.  
12 They will be on January 6th, and that week will be  
13 for Mr. Lalonde and Mr. Brisset and all the groups they  
14 represent, and all the districts they represent also --  
15 all the areas they cover; and then on the Monday of the  
16 week after we will have the other areas covered.

17 So after finishing our public hearings  
18 we are just eighteen months behind the schedule which  
19 we put on our first calendar which we worked out in 1962  
20 and the beginning of 1963. We thought we would be  
21 able to finish the public hearings by November 1963.  
22 Well, it was not that year, and it seems that we have mis-  
23 calculated by half.

24 As you have seen, we have got a lot of  
25 information, but that we may not find complete, and we  
26 still have our part of the investigation to make so that  
27 we get all the information. So that so far as we  
28 are concerned it is only one part of our work that  
29 is done. We would like very much to think that it  
30





1 is the worst part of it -- if I can use that word --  
2 but I am afraid that is not so.

3 Now, I am glad also that we haven't to  
4 stay on until tomorrow, that we were able to finish,  
5 because this will leave some of our counsel with  
6 some leeway and with the time they need, if they so  
7 wish, to go through a formal investigation of their  
8 briefs, if they can find a judge.

9 Thank you.

10

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12 --- Thereupon the hearing was adjourned at 5.50 p.m.

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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT

OTTAWA  
Ontario

VOLUME No.:

156

DATE:

6 January, 1965

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Exchequer Court Build-  
ing, Ottawa, Ontario, on Wednesday,  
the 6th day of January, 1965.

COMMISSION:

The Honourable Mr. Justice Bernier	-- Chairman
Mr. Robert K. Smith	-- Member
Mr. Harold A. Renwick	-- Member
Mr. Gilbert Nadeau	-- Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	-- for the Shipping Federation of Canada
Mr. Marc Lalonde	-- for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corporation of the Mid- St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corpor- ation of the Upper St. Lawrence Pilots
Mr. R. Langlois	-- for the Canadian Merchant Service Guild





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II

PRESENT:

Mr. J. J. Mahoney -- for the Dominion Marine  
Association

Mr. R. Macgillivray -- for the Department of  
Transport

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ARGUMENT

PAGE

As presented by Mr. Lalonde  
(and continuing throughout)

20,706







--- On commencing at 10:00 a.m.

THE CHAIRMAN: Well, gentlemen, I am very pleased to see you all with us again. I think the Exchequer Court here is a fitting place to finish what was started in the Exchequer Court two years and almost a month ago -- two years and fifteen days ago on the 20th of December, 1962 -- what we thought would be a few months of deliberations and that would be all. We are still at the public hearing stage which is finishing today.

I think counsel have now had an opportunity to look at the transcript and try to sum up and read it and study it, and they can now more readily appreciate the job that the Commission now has, which is a task of cleaning up and summing up; something huge. Something you cannot really appreciate unless you have tried it yourself, and counsel now have had the experience of that. It is amazing. It is tremendous.

In any event, as far as we are concerned, we are progressing but it is a job that has to be made very carefully because the report is going to depend upon it. It does not matter what kind of recommendations are going to be made; they have to be well thought out and based on the facts that were heard, facts that were proved, and these facts can only be ascertained through very meticulous study of the evidence. Therefore, the factual part of our report, I think, is going to be the most important one, and needs to be very carefully and





1 completely made. That is what we are trying to do.

2 Quite a few of you sent us wishes for  
3 the New Year. We thank you very, very much, and we  
4 may tell you again that we really need a lot of wishes  
5 for the coming year.

6 We are now going to have the last  
7 part of the public hearings; that is, the pleadings.  
8 As I told you before, should we find that it is  
9 necessary to have more public hearings, we will call  
10 on you for that, and, on your side, should you feel  
11 that something else should be told to us, you can  
12 communicate with us stating what you wish to establish,  
13 and we will decide whether it is a contentious point  
14 that needs a public hearing, or whether it should be  
15 treated only as information that everybody agrees  
16 to, and therefore could be put in the form of correspond-  
17 ence and filed as an exhibit as we are doing now for  
18 the other information that we are obtaining every day.

19 As I told you at the last hearing,  
20 this additional information that we are obtaining is  
21 all put in the form of exhibits filed, and the list  
22 of these exhibits with full descriptions is going to  
23 be circulated to all the counsel so that they can  
24 know what we have been obtaining.

25 Now, I'd like to proceed with the  
26 pleadings, with Mr. Lalonde, I think.

27 MR. LALONDE: My lord, I am sure that  
28 in my own name, on behalf of my confreres, and our  
29 clients, wish to repeat our good wishes for this  
30 coming year. I do not know whether it will be a happy





1 one, but it would appear it would certainly be a  
2 heavy one. As far as our wishes are concerned, we wish  
3 it to be both happy and light, although knowing I am  
4 pretty sure that it will be happy and heavy.

5 As you said, over two years ago you  
6 started sitting and holding hearings in connection  
7 with this Commission, and I notice that the sittings  
8 were held, the first sittings were held in the room  
9 on the right side of this building and we have now  
10 moved to the left after two years and fifteen days.  
11 I don't know whether we should reach any conclusions  
12 from this fact, or whether it is by pure accident  
13 of physics. I suppose that all the parties, anyway,  
14 can conclude that this is either right or left,  
15 according to the side at which you look at the  
16 building. Therefore, I suppose not too much should  
17 be construed from this as far as the deep thinkings  
18 of the Commission are concerned.

19 As you stated, my lord, the work of  
20 this Commission remains quite substantial. Now,  
21 during the last few weeks I and I am pretty sure  
22 my confreres have been faced with a little bit of the  
23 task which you are facing. Speaking for myself,  
24 I must say that I have been afraid that I was not  
25 up to the challenge of going through all that  
26 evidence and referring to it and making notes and  
27 all that. Therefore, I have pretty well come to  
28 the conclusion, throwing up my hands in despair,  
29 that it would be better not to refer too much to the  
30 evidence and not try to bring out all of the fine









1 points in testimonies which have been given which  
2 would either support or contest one fact or another.

3 Most of us here have been quite  
4 regularly attending the sittings, and certainly  
5 all the members of the Commission and the staff have  
6 been at the hearings all the time, and they know  
7 what was said, I am pretty sure, and in some instances  
8 probably by just referring to a matter the evidence  
9 will come up to your mind by itself. I will leave  
10 it to you to weigh the validity of certain assertions  
11 once in a while, although in some other cases I  
12 will want to refer to specific evidence.

13 Now, I have decided to give my  
14 pleadings in the French language. I notice that  
15 we have the service of translation available,  
16 simultaneous interpretation I should say, rather,  
17 and with the permission of the Commission I would  
18 prefer to proceed in French.

19 THE CHAIRMAN: Thank you very much.  
20 As you gave us notice ahead, we were able to make  
21 the necessary arrangements.

22 (THROUGH THE INTERPRETER.)

23 MR. LALONDE: I take this opportunity  
24 of saying a few words regarding the duration and the complete  
25 nature of the work undertaken by this Inquiry.  
26 As a matter of fact, the Commission held more than  
27 155 days of public hearings, but I have not included  
28 all the days during which the Commissioners were  
29 at work in their offices, or their respective  
30 homes, working on the Commission's work. Moreover,





1 the Commission visited different pilotage districts,  
2 by making a trip on board, first a vessel, or by  
3 visiting the sites such as pilotage stations, or  
4 officers of pilots' associations, and so forth.

5 From all inquiries held up to now,  
6 in the history of Canada in the field of pilotage,  
7 this Inquiry will certainly have been the most  
8 exhaustive and the most complete and comprehensive  
9 of any, and I think I may add quite accurately,  
10 that this Commission will be recorded as the one  
11 which really delved deeply in the problems of  
12 pilotage and which will have re-examined in that  
13 all of the structures of pilotage, as well as the  
14 different conditions for exercising pilotage in the  
15 different districts throughout Canada.

16 This Inquiry was very thorough as  
17 regards the St. Lawrence River, and I may also add  
18 in the districts of the Great Lakes. The explanations  
19 regarding that are very great and are quite  
20 numerous and easy to find. As a matter of fact,  
21 if we calculate the number of pilots in Canada, one  
22 readily reaches the conclusion that more than two-  
23 thirds of the pilots -- more than two-thirds of the  
24 pilots in Canada work on the St. Lawrence River,  
25 as well as the Great Lakes.

26 In the second place, it is quite  
27 evident that the St. Lawrence River represents a  
28 vital point from the economic viewpoint of this  
29 country; not only this country, but also for a  
30 certain great part of the United States. More





1 French

2 particularly, the whole central-northern part of the  
3 United States.

4 In the third place, the St. Lawrence,  
5 as has been illustrated throughout the evidence,  
6 from the visits made by the Commission, constitutes  
7 a navigation river which has many obstacles or  
8 difficulties resulting from the geographical conditions  
9 of the St. Lawrence River, and there are also  
10 many difficulties, taking many shapes or forms,  
11 extending from the Great Lakes, to vessels navigat-  
12 ing the St. Lawrence; for example, difficulties  
13 which stem from the particular ships, and also the  
14 sizes -- the tonnages; difficulties stemming also  
15 from the existence of great variations in the  
16 conditions between one pilotage district and  
17 another -- whether you take the Quebec District and  
18 compare it to the Montreal Pilotage District, or  
19 whether you take the Montreal Pilotage District  
20 and compare it to Kingston, or to Montreal Harbour.  
21 As we find them in the record, in each case one  
22 must undertake a special study of what conditions  
23 are to be found elsewhere, and to try to ascertain  
24 whether fundamental conditions exist and are  
25 similar from one district to another. Nonetheless,  
26 there are great differences in the exercising of  
27 pilotage itself and in the fulfilment of the duties  
28 of the pilots.

29 Finally, there is illustrated in the  
30 time taken by the Commission in studying pilotage on









1 French

2 the St. Lawrence and the Great Lakes, and this,  
3 of course, is related to the particular administrative  
4 difficulties which took place approximately over the  
5 last ten years in different pilotage districts of  
6 the St. Lawrence and the Great Lakes. The St.  
7 Lawrence pilots were happy, or pleased, with the  
8 efforts made by this Commission in studying the  
9 problems of the St. Lawrence. The pilots are  
10 convinced that the situation was studied for quite  
11 a long time, and they were pleased to offer their  
12 utter and entire co-operation towards the work of the  
13 Commission, and I think that the sittings of this  
14 Commission have shown the interest of the pilots  
15 in the work of this Commission and have shown that  
16 they were ready to give it their support. As a  
17 matter of fact, the pilotage associations have  
18 opened to this Commission all of their books and  
19 records, and I know that if there was any document  
20 that this Commission wanted to have and which was  
21 in the hands of the pilots, the pilots always  
22 gave the document to the Commission; and the  
23 financial statements required by the Commission  
24 have been given and made public.

25 The Commission at all times was  
26 able to visit the locals and offices of the  
27 different associations, and to study the way in which  
28 these associations were being administered and the  
29 physical conditions under which these associations  
30 and corporations were being administered.





French

1 In addition, the pilots, as well as  
2 their representatives, or their employees, came  
3 and gave evidence in great number and gave evidence  
4 on the different aspects of pilotage.

5 I note that there were 34 pilots,  
6 or representatives from pilotage associations -- and  
7 I am thinking of the pilots on the St. Lawrence only,  
8 up to Kingston -- who came to give evidence before  
9 this Commission, and we should add to that 34 about  
10 a dozen pilots from Districts 2 and 3 of the Great  
11 Lakes; which means that between the Great Lakes and  
12 the St. Lawrence, about 45 witnesses representing  
13 the pilots came before this Commission and submitted  
14 themselves to cross-examination made by each of  
15 the different concerned parties. As an explanation of  
16 that, think of the study made by this Commission  
17 in that respect through the sittings of this Commission  
18 regarding the Corporation of the Lower St. Lawrence  
19 Pilots, which sittings were held both in Quebec  
20 and Montreal and which lasted for many days -- I  
21 would even say a few weeks -- and during which this  
22 Commission was able to screen through the operations  
23 of the Corporation, or the Pilotage Association.

24 I would also underline, in relation  
25 to the Corporations, the interest shown by the  
26 pilots in the work of this Commission, and I would  
27 also like to underline the fact that the pilots  
28 have followed quite actively all the sittings of this  
29 Commission. The Commission was in a position to  
30 observe the presence of the pilots; the Commission was





French

1 also able to see the number of pilots who were able  
2 to get free from their duties in order to attend  
3 sittings of the Commission whenever the Commission was  
4 holding hearings in the different pilotage districts;  
5 even today, if one looks around this room, there  
6 are a great number of them who have come to hear  
7 the arguments to this Commission; and this indicates  
8 the interest -- the importance -- of this Commission  
9 to them, and it is also evident that the anticipation  
10 -- or, I may say, the regular attendance on the  
11 workings of the Commission has entailed great cost  
12 to the pilotage associations who had to defray the  
13 costs of their executives attending the Commission,  
14 not to mention those of their counsel attending the  
15 hearings of this Commission. And in different  
16 districts, there was an increased amount of work  
17 because of the pilots who remained on duty so as to  
18 allow their representatives to attend the different  
19 sittings of the Commission; and this, during such  
20 an active year, or when navigation laws as heavy,  
21 as you know, in the year 1964. We have now started  
22 1965; and I would like to underline that this  
23 represents a true sacrifice by those who had to stay  
24 on duty on behalf of those of the representatives  
25 who had to be before this Commission.

26 I would also like to underline the  
27 comprehensive aspect of the brief of the pilots  
28 which has been submitted to this Commission. For  
29 the purposes of preparing this brief, the pilots  
30 have sent their representatives to foreign lands,









1 or abroad, in order to study and examine pilotage  
2 operation and administration in different countries --  
3 in the United States, to different parts of Europe  
4 and even to Egypt; they had to undertake those costs  
5 -- expenses -- in relation to the preparation of  
6 their brief; and they didn't hesitate in having  
7 recourse to experts in the different fields. Thus,  
8 they hired specialists in the fields of industrial  
9 relations and economics, and financial advisers, and,  
10 finally, counsel, for the preparation of this  
11 brief.

12                   You will note that I have stressed  
13 the importance to the Commission to study the evid-  
14 ence submitted before this Commission, and I have  
15 studied the brief of the Federation of St. Lawrence  
16 River Pilots and, to my astonishment, I find that  
17 it is an extremely good brief. I have had occasion  
18 to refer to this brief occasionally, and I think  
19 that this brief is still not obsolete. We have  
20 found certain elements which are valid, and there are  
21 valid elements which were not underlined during the  
22 presentation of this brief; but certain of them  
23 are of an argumentative nature and it was impossible  
24 to make a full, formal proof of these elements. It  
25 is not my intention to read again all the arguments  
26 presented in these more than 300 pages of brief --  
27 I am sure you have all read them -- and I have no  
28 doubt that you will refer to them.

29                   THE CHAIRMAN: On this point, I must  
30 tell you that all the briefs that we have received





French

1 will be studied when we have to deal with the evidence,  
2 and when we try to reach an opinion, aside from the  
3 help we have received from those who raise the  
4 problems themselves.

5 MR. LALONDE: In relation to the  
6 interest shown by the pilots in the work of this  
7 Commission, I would also like to draw your attention  
8 to the approach of the pilots of the St. Lawrence  
9 and the Great Lakes to the work of this Commission.  
10 The pilots worked deliberately to avoid, in the  
11 presentation of their brief, abusive attacks either  
12 against the shipowners or the Pilotage Authorities;  
13 they wanted to avoid as much as possible questions  
14 about the past and try, rather, to have their  
15 eyes turned towards the future in the field of  
16 pilotage; and if you read the brief of the Federation  
17 of St. Lawrence River Pilots, you will notice that  
18 very little space is given to the detail of events  
19 of five or ten years ago; and they wanted, further,  
20 to try and pinpoint, for this Commission, the general  
21 aspect of pilotage conditions, the physical conditions,  
22 the environment in which pilotage was taking place,  
23 and try to present new recommendations.

24  
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French

The pilots of the St. Lawrence and Great Lakes have adopted this approach as a kind of display of confidence in this Commission. I think this is the first Commission whose work has been done by persons not directly involved in the exercise of piloting, who are not themselves pilots. I think this is a very good thing and in the second place, this enables us to hope that in the future there will be a report that will meet with the unanimous opinion that the previous reports drawn up by different Royal Commission have met with.

Insofar as the general purpose of the brief submitted to this Commission, I said that I would not be going over all the points raised in the brief of the St. Lawrence River pilots or the Great Lake pilots. Indeed, I wish you to examine the problems of the St. Lawrence and the Great Lakes pilots and deal with them as a whole.

The purpose of my plea will have a double objective. I wish to underline the basic points of the evidence backing the allegations of the St. Lawrence pilots and the recommendations of the St. Lawrence pilots.

I also wish to draw your attention to the deficiencies in certain of the recommendations made before this Commission and, in fact, there are a certain number of allegations which have been made to this Commission which have not been proven.

In order to achieve this objective, I have divided my plea into three parts: the first







French

1 part will be an examination of the causes for the  
2 continuous latent state of conflict in which pilotage  
3 has been over the course of the past numerous years.

4 In the second part I shall provide  
5 a short examination or analysis of what I think  
6 should be the directive principles behind the  
7 reform of pilotage, and in the third part I shall  
8 attempt to provide a critical analysis of the  
9 different recommendations made by the St. Lawrence  
10 pilots and the Great Lakes pilots, and by other  
11 organizations or individuals who have appeared  
12 before this Commission.

13 This third part shall be divided  
14 into two minor parts: the first part shall examine  
15 the administrative structures; and the second part  
16 will deal with the exercise of pilotage itself, with  
17 the pilotage work itself.

18 Let us look, first of all, at the  
19 causes which I may call the latent reasons for  
20 conflict which I have noted as a characteristic  
21 of pilotage over the past few years.

22 First of all, I would like to make a  
23 few preliminary remarks. This Commission was set  
24 up at the end of 1962, following a work stoppage  
25 that took place on the St. Lawrence in April of  
26 1962, and a superficial examination of the facts  
27 will show us or will enable us to reach a conclusion  
28 that this Commission was simply intended to examine  
29 the causes for this work stoppage; to decide whether  
30 "yes" or "no", the pilotage should be allowed to





French

1 stop work; whether the right to strike should be  
2 forbidden among pilots; and whether the Commission  
3 should not settle some specific problems that might  
4 have arisen -- whether the Commission should make  
5 some specific recommendation in regard to this  
6 1962 work stoppage and then close its report.

7 I have no doubt under these conditions,  
8 the prediction that your lordship made on the 21st  
9 of December, 1962, would have been carried out.  
10 We could have finished our hearings and completed  
11 the report. I am convinced this would have been a  
12 very superficial manner of conducting our work and  
13 this work stoppage of 1962 cannot be viewed as an  
14 event that is unique in Canada, that developed on  
15 its own, that is distinct from a great number of  
16 prior events and this work stoppage can only be  
17 understood if considered in the subsequent light of  
18 the difficulties that existed previously.

19 It is, indeed, the end of a whole  
20 series of events, the the circumstances which had  
21 arisen from the piloting system throughout the years.  
22 Indeed, I think this was understood by the Government  
23 which at the period, gave the Commission very wide  
24 terms of reference; the terms of reference which are  
25 the Commission's at the moment.

26 Indeed, this work stoppage crystallized  
27 this latent state of conflict which had existed in  
28 the administration of pilotage; the particular events  
29 and . . . (translation unclear) . . . in order to  
30 pay the administrative costs in the different pilotage





French

1 districts in Canada was the reason that gave -- this  
2 was the event that brought out the situation in its  
3 true light; brought out the difficult situation in  
4 which pilotage found itself in Canada.

5 To attempt to explain this work  
6 stoppage solely by the raising of questions of  
7 negotiations and difficulties with the shipowners  
8 in regard to specific problems, I think, would be  
9 oversimplifying the problem before us.

10 I remember, for instance, when Captain  
11 Slocombe was giving evidence before this Commission  
12 on the 15th of September last, he stated as reported  
13 in Volume 139, page 17,903 and 17,904, when he was  
14 speaking of this question of the project of the  
15 Department to take part of the pilotage revenues  
16 to meet administrative expenses.

17 After he had produced two letters from  
18 the Deputy Minister, Captain Dussault, which in Item  
19 187 he stated the following:

20 "The situation is laid out very fully  
21 in those two letters. You asked why  
22 the apparent change of opinion. There  
23 was no sudden change of opinion. The  
24 dropping of the proposal was one of the  
25 measures forced upon the Pilotage  
26 Authority by the 1962 strike."

27 I refer the Commission to the evidence  
28 given by Mr. Colley of the Shipping Federation when  
29 cross-questioned by myself and he said, in the  
30 final analysis, the Shipping Federation had reached







French

1 the conclusion that if it were necessary to adopt  
2 the position, an imperative decision with regard  
3 to the work stoppage, although it might not wish  
4 to, it would be, I would say, almost satisfied that  
5 things should come to this and finally that we should  
6 have a settlement; a final settlement of this  
7 question.

8           Besides, as a further plea, that the  
9 evidence before this Commission cannot be bound  
10 solely to the work stoppage of 1962, we may infer  
11 from the fact that prior to that period on diverse  
12 and numerous occasions, the pilots and the shipowners  
13 had requested that an inquiry commission be set up,  
14 whether it be at the time Bill S-3 were presented;  
15 whether it be at the time of the difficulties of  
16 October 1960, the pilots or the shipowners on  
17 different occasions suggested or requested that  
18 the Government should set up a commission to inquire  
19 into pilotage.

20           Now, having made these preliminary  
21 remarks, should we speak of the latent state of  
22 conflict in pilotage? To summarize: is this a  
23 phenomena which became manifest only over recent  
24 years? Is this something which has arisen all of  
25 a sudden over the three, four or five past years,  
26 or can we look further back? Can we see the  
27 thread in the history of pilotage on the St. Lawrence  
28 in particular, a patterned state of conflict, which  
29 is a pattern?

30           First of all, I think we might mention





French

1 that the present difficulties in pilotage in Canada  
2 are not the first. My colleague, lawyer Jacques  
3 has tabled before this Commission a list of reports  
4 of Royal Commissions prior to this one. I noted there  
5 had been one in Saint John, New Brunswick in 1895,  
6 and in 1913 for Montreal and for Halifax in 1918,  
7 Vancouver, Nanaimo and New Westminster in 1919 and  
8 Miramichi again in 1919, and another for B.C. waters  
9 in 1929, so I am happy to see in British Columbia  
10 also, there have been problems, and they have had  
11 to be examined at least twice and finally in 1949,  
12 the Department of Transport set up a Committee known  
13 as the Audette Committee which made an examination  
14 of the problems in pilotage, in regard to pilotage.

15 These different commissions proved  
16 that pilotage from time to time has gone through  
17 periods of readjustments in its operations. Further-  
18 more, work stoppages which have been referred to  
19 before this Commission and have arisen over the  
20 past few years are not the first work stoppages in  
21 the history of pilotage in Canada.

22 I shall limit myself to reminding the  
23 Commission of the work stoppages that arose in  
24 Quebec in the early '30's, to which pilot Pouliot  
25 referred in his evidence.

26 Mr. Brisset, questioning Captain  
27 Pouliot at page 1,927, Volume 59F, asked:

28 "You never were on strike during the  
29 time you were a pilot?"

30 "A. On strike, oh yes."





French

1 "Q. What year?

2 "A. The exact year I can't give you.

3 They wanted two pilots to go through  
4 the ice.

5 "Q. They wanted two pilots to go  
6 through the ice. What year, do you  
7 remember?

8 "A. It must have been the '30's,  
9 something.

10 "Q. Between 1930 and the '30's  
11 something, had all the pilots gone  
12 on strike?

13 "A. Absolutely.

14 "Q. For how long?

15 "A. Two days.

16 "Q. And finally they were in agreement?

17 "A. It was costly to keep the ships  
18 in Montreal.

19 "Q. Pardon me.

20 "A. It was costly to keep the ships  
21 in Montreal.

22 "Q. Yes?

23 "A. They could have been stuck in the  
24 ice there."

25 I must admit that is an expression I  
26 did not know.

27 Also, in the Montreal District there  
28 has been evidence shown that there was a work stoppage  
29 in October, 1951, a work stoppage that lasted two  
30 days, and I am not referring to the experience in other







1 pilotage districts in Canada, excepting perhaps that  
2 I should mention in passing, the fact that all of a  
3 sudden the decision taken to abolish the Pilotage  
4 District in British Columbia, which was 30-odd years  
5 ago, if I remember correctly.

6 I think these events are only to be  
7 raised at this point to underline the fact that there  
8 is a latent state of conflict in the field of pilotage.

9 Finally, we should not imagine either  
10 that the relations with shipowners have become  
11 suddenly tense in 1959 and 1960, and that before that  
12 there had been a perfect honeymoon between the  
13 shipowners and the pilots.

14 I refer your Commission to the Report  
15 of the 1913 Commission and, more particularly, the  
16 Reply of the Pilots of Quebec to the Lindsay Commission  
17 Report. I refer to pages 3, 5 and 6 of that Reply  
18 published in 1914.

19 In regard to the Report of 1913, this  
20 Reply is a most impressive one and I quote page 5,  
21 in particular: The Quebec needed -- and I quote:

22 "The Corporation was established in  
23 order to protect the pilots and  
24 shipping. With our Corporation we  
25 got rid of the sharks pursuing the  
26 pilots 54 years ago, taking the  
27 best part of their benefits; and today  
28 we want the same Corporation to keep  
29 them away. We know too well what  
30 was formerly done, and we know that





1 "the same thing would happen again,  
2 and perhaps worst. We remember too  
3 that a few years ago in the River  
4 Saguenay, the pilotage was in the  
5 hands of one firm, two men were engaged  
6 at two or three hundred dollars a year  
7 to make the pilotage in that river,  
8 the ships were charged full tariff,  
9 and the difference went in the profit  
10 and loss account of the said firm."

11 "We know that some interested people  
12 would be glad to see the pilots in  
13 the hands of one man, hidden behind  
14 the Minister of Marine and Fisheries  
15 and directed by the Shipping Federation  
16 who would induce him always, in the  
17 name of the Minister, to put the  
18 pilots in a state of slavery, overrule  
19 and ruin them under the pretext of  
20 discipline. We'd like to say that  
21 we do not want to be put under marshal  
22 law to fulfil our duties."

23 The pilots were warning that to the  
24 members of the Federal Council in English, so I  
25 have the English text.





1 The language is certainly excessive  
2 in nature, but I think it is a good description.  
3 It is very good to describe the atmosphere exercising  
4 them. Naturally, if we had to face all these  
5 difficulties from 1895, I would say at different  
6 periods of time these difficulties have become  
7 more important during the last ten years, and this  
8 Commission has had the opportunity of hearing about  
9 more frequent work stoppages in the recent years,  
10 and especially in Montreal.

11 I believe the causes or the justifications  
12 or the lack of justifications for these work stoppages  
13 at any rate did show that something was wrong in the  
14 field of pilotage, and the pilots were not very  
15 happy with their status and with their working  
16 conditions.

17 In the second place as regards these  
18 work stoppages and difficulties of recent years, I  
19 think that the Commission also had a opportunity  
20 to assess the intransigent and distrustful attitudes  
21 of shipowners of the St. Lawrence. Finally, during  
22 the last ten years, as a special phenomena you have  
23 a certain type of concentration of pilots in the  
24 offices of the Pilotage Authority in Ottawa. From  
25 the evidence during the last sittings here in Ottawa,  
26 we have drawn attention to the fact through this  
27 evidence that during the past five or six years, the  
28 cost of pilotage administration in Ottawa had  
29 increased by 50%, while in many districts the  
30 administrative costs in the field of pilotage had







French

1 decreased, or had remained stable. I think that  
2 this fact by itself shows how this trend of  
3 concentration of pilots in Ottawa has been increasing  
4 in the past years.

5 Now, as to the causes for this  
6 latent state of conflict, and the state of conflicts  
7 which has been increased and exercising itself in  
8 recent years, it is possible to find different  
9 factors or reasons. Before studying these causes,  
10 I would like to underline the attitude of the ship-  
11 owners in that field: The Shipping Federation of  
12 Canada has maintained in its brief that its  
13 difficulties were to be related to these establish-  
14 ments of pilots' corporations on the St. Lawrence,  
15 and this, of course, is something that could be  
16 felt throughout their brief which has been filed  
17 as Exhibit 726.

18 On page 5 it is mentioned, and I quote:

19 " --- the corporate organization of  
20 the pilots in each of the districts,  
21 as it came to be developed during the  
22 last five years, and the impact which  
23 the growth of such corporate and  
24 impersonal entities have had on the  
25 collective behaviour of the pilots  
26 in the discharge of their duties, and  
27 on the exercise by the Pilotage Authority  
28 of its executive powers."

29 On page 22:

30 "It is highly significant that this





French

1 "state of affairs originated with the  
2 formation and development of corpor-  
3 ations which showed to be tightly-knit  
4 organizations tended to establish  
5 'closed shop' practices and grouping  
6 together most, if not all of the  
7 pilots of the various districts and  
8 concentrating in the hands of a few  
9 the power to rule over the destinies  
10 of the whole group."

11 I could go on quoting from excerpts  
12 by the dozen. I have some before me.

13 "It is the respectful submission of this Feder-  
14 ation that such a power should not lie in the  
15 hands of any single group of men. This group is  
16 small; the permanent active pilots in the four  
17 Districts with which we are concerned in the St.  
18 Lawrence River today number only 228 men, and it  
19 is evident that only a few of these men are setting  
20 the policies of the group;" -- and so on and so  
21 forth I could quote on this matter.

22 The fact of the cause of these difficulties  
23 stemming from the establishment of the corporations,  
24 pilots' corporations, according to the brief of the  
25 Shipping Federation itself today, the establishment  
26 and this concentration of powers, and according to  
27 the brief this Federation would have complete author-  
28 ity over the St. Lawrence River Pilots and their  
29 Corporations.

30 This is not a phenomenon which was  
mentioned early in the Shipping Federation brief,  
but it results from an attitude which was prior to  
the preparation of this brief and which goes back to  
a period which precedes for many years the drafting  
of this brief. For example, we have found as Appendix 62,







French

1 a letter from the Shipping Federation, addressed in  
2 1961 by Mr. Colley, on behalf of the Shipping  
3 Federation to The Honourable Leon Balcer, and you  
4 may find this sentence on page 186:

5 "The pilots who have imposed their  
6 sinister corporation system on the  
7 Montreal Harbour Pilots are in fact  
8 seeking to gain official recognition  
9 of this state of affairs."

10 And related to that, that is the  
11 establishment of corporations, this Corporation had  
12 excessive powers over the St. Lawrence River Pilots.  
13 It is stated, for example, on page 27:

14 "The Associations which were formed,  
15 however, to administer these pooling  
16 agreements and to group the pilots  
17 were, nevertheless, Associations which  
18 left to the pilots themselves the  
19 control of their earnings, as opposed  
20 to what has resulted from the transfer  
21 of the pilots' earnings to corporations  
22 which have a juridical personality  
23 of their own and are managed independently  
24 of the individual pilots themselves."

25 "As far as the Federation of the  
26 St. Lawrence Pilots is concerned,  
27 its control over the earnings of the  
28 pilots stems from the power of its  
29 Board of Administration to exact  
30 contributions out of the earnings of the







French

1 "pilots, members of the various  
2 district Corporations, not by assessment  
3 against each pilot individually, but  
4 by assessment against the pooled  
5 funds of the various Corporations  
6 which are already under the control  
7 of their respective Board of Administration."

8 I could quote pages and pages of this  
9 brief, but an attempt is made by the establishment  
10 of the Corporations to show difficulties that took  
11 place on the St. Lawrence. Pages 82 and 83:

12 "A review of some of the general bylaws  
13 of these Corporations seems to  
14 justify the conclusion that their  
15 Boards of Administration are actually  
16 vested with what might be called  
17 unlimited and arbitrary powers  
18 stemming mainly from the fact that  
19 they come to manage the pilots'  
20 earnings."

21 In an attempt to study all the bylaws  
22 I quoted, I must reach the conclusion that it is  
23 not necessary to study the bylaws and regulations  
24 of different associations and corporations to reach  
25 the conclusion that is reached by quoting the bylaws  
26 quoted on pages 83 to 87 of the brief of the Shipping  
27 Federation.

28 In fact, on page 87, the arguments  
29 of 1913 are being quoted again. I don't know if you  
30 want to get back to that period.





1 "The end result of such dual control  
2 has been that, when there arose a  
3 conflict between the Corporations and  
4 the Pilotage Authority, the administrat-  
5 ive system either collapsed because of  
6 the pilots' refusal in all districts  
7 to accept assignments or, under the  
8 threats of such a collapse, the  
9 Minister had to yield to the economic  
10 demands presented to him, while the  
11 users of the services who pay to maintain  
12 such services, had little or no influence  
13 in the formulating of the decisions  
14 which affected them . . . "

15 et cetera, and the sentence goes on for a whole  
16 paragraph. If you read the Report of 1913, you will  
17 find most of the different segments of fact of the  
18 majority of members of this Commission, which included  
19 the Secretary of the Shipping Federation of this time,  
20 and which on page 9 once more reference is made to  
21 this dual control which is supposed to be exercised  
22 in the field of pilotage on the one hand by the  
23 public authority, and on the other hand by the  
24 Corporations.

25 On page 9 it is stated:

26 "(a) There are at present two Pilotage  
27 Authorities; that is, the Corporation  
28 of Pilots, who are the real authorities,  
29 and the Minister of Marine and Fisher-  
30 ies, who is the nominal authority."





1 This Report has been filed as Exhibit  
2 No. 1325. At that time Mr. Lachance, who was a  
3 member of the Commission, stated that he was dissenting  
4 regarding this interpretation of the facts, and  
5 said that in 1964 what has been read in the 1913  
6 Report has been transposed to 1964, and as the same  
7 word "corporations" was found, it was believed that  
8 the same institutions existed then. . . (inaudible) . . .  
9 from the Shipping Federation, regarding the influence  
10 and origin of difficulties which took place in the  
11 field of pilotage in recent years is quite a fantastic  
12 one.

13 I think that the shipowners have  
14 sort of created a sort of type of Frankenstein in  
15 which they finally believed, as Captain Johnson has  
16 disappeared from the scene, they tried to find another  
17 Frankenstein which would replace this mythical enemy  
18 that had been created during the mid 1950's.

19 I will outline to this Commission what  
20 are the real differences between the pilots'  
21 associations which have existed on the St. Lawrence  
22 since 1918 and 1924 respectively, and with the  
23 Corporations of pilots which have been established  
24 during the '50's, and I will also have an opportunity  
25 of reviewing with this Commission the evidence given  
26 before this Commission regarding the administration  
27 of these Corporations.

28 For the time being, it is sufficient  
29 to say that there is a lack of relationship between  
30 cause and effect regarding the ideas of the Shipping









French

1 Federation and the difficulties in the field of  
2 pilotage. I am going to demonstrate that simply  
3 by referring to the fact that in the brief of the  
4 Shipping Federation itself and the evidence of  
5 Captain Matheson, reference is made to a threat of  
6 stoppage of work in 1957 on the part of the pilots  
7 of the Montreal District, while the Corporation of  
8 the St. Lawrence was created in February, 1959 only,  
9 and that in the Montreal District you had a stoppage  
10 of work in 1951. I mentioned before there had also  
11 been a work stoppage in the '30's in the Quebec  
12 District, and that above Montreal in the District  
13 which was called then St. Lawrence-Kingston-Ottawa,  
14 you had some work stoppages which took place before  
15 the establishment of the Corporation. We had  
16 stoppage of work in 1955, for example, and I will  
17 refer the Commission to Volumes 87 and 97 of evidence,  
18 pages 10,876 to 10,879; 12,859 to 12,870, and I will  
19 add that there were troubles and difficulties  
20 where there were no corporations in existence.

21                   You had certain difficulties which  
22 took place on the Great Lakes regarding sailing masters,  
23 and you heard a great deal about that, and there was  
24 no corporations then. These difficulties are  
25 related to all the factors, and these other factors  
26 are the ones which must be established and demonstrated,  
27 if we finally want to have a true understanding of the  
28 problems facing pilotage during these recent years,  
29 and if we want to reach a conclusion which would not  
30 be simply and purely a creation of the mind. Those





1 are the factors I would like to study after a brief  
2 recess, if possible.

3 THE CHAIRMAN: We have only one  
4 French-speaking stenographer, and as counsel is  
5 going rather fast I think we are going to have a  
6 short recess after an hour and a quarter.

7 I am asked to inform you not to smoke  
8 in this court. If you want, you may smoke outside  
9 this court.

10

11 --- A short recess.

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ps 1 MR. LALONDE: Your lordship and  
2 gentlemen, I was saying that, according to my view,  
3 we couldn't attribute the reasons for difficulties  
4 in pilotage to the setting up of the pilot corporations  
5 at the end of the 1950's and the early 1960's.

6 I want to proceed to establish that  
7 the corporation is a legal institution. They added  
8 nothing new to the powers of previous associations,  
9 nor did they give powers that were really substantially  
10 greater or more considerable to the directors of  
11 the associations regarding previous corporations --  
12 the powers were no greater in the new corporations;  
13 and I will attempt to establish that the corporations  
14 are the symbol, or the expression, of the desire  
15 for change that is found amongst the pilots in the  
16 traditional relationships between themselves and the  
17 pilotage authorities and the shipowners; and that  
18 the setting up of the corporations is rather the  
19 end result of a long process than a point of depart-  
20 ure of a new process.

21 I should also like to establish that  
22 the pilot's job requires close co-operation amongst  
23 the pilots; requires the unifying of the pilots  
24 within a single organization; and we will relate  
25 this to foreign experience in that respect.

26 Indeed, the explanations of the  
27 difficulties that have arisen in the field of pilotage  
28 cannot be found in the setting up of corporations --  
29 the pilots' corporations -- but should be sought  
30 for elsewhere; and the explanation, indeed, given by







French

1 the Shipping Federation in its brief is, in my view,  
2 a superficial and too simple a view.

3 What are the true reasons for the  
4 difficulties which have been felt in the field of  
5 pilotage over the last few years? Before examining  
6 these reasons -- these causes -- before I enumerate  
7 and analyze these causes -- I think it is important  
8 to examine pilotage on the Great Lakes and in the  
9 St. Lawrence in the light of the historical aspect.

10 Let us examine the evidence as it was  
11 in the early '30's. In this historical background  
12 I will start with the year 1930, and conditions of  
13 pilots on the Great Lakes between the years 1930  
14 and 1940. St. Lawrence pilots have given evidence in  
15 that respect. The pilots gave evidence of pilots  
16 who had retired because of certain conditions at  
17 that time. They explained the situation of the  
18 pilots during the economic crisis -- the period of  
19 economic crisis -- in the '30's, when there was a  
20 very great reduction in Maritime traffic along the  
21 St. Lawrence; at the same time there were too many  
22 pilots in relation to the Maritimes traffic; and,  
23 apart from that factor, there was almost a complete  
24 absence of foreign ships plying above Montreal.  
25 The ocean traffic, for all practical purposes, was  
26 between Montreal towards the Atlantic.

27 Then, what situation was there in the  
28 Pilotage Districts of Montreal and Quebec? There  
29 were too many pilots, and there were apprentices  
30 who, due to the low volume of traffic, could not become





1 pilots as such -- could not enter the field of  
2 pilotage -- and continued as apprentices for nine  
3 or ten years, hoping that there would be a stepping  
4 up in business that would enable them to be accepted  
5 as pilots and to have their regular licence.

6 This was a period when we had the  
7 system of special pilots -- that is, pilots who  
8 served special steamship lines -- and obviously this  
9 system certainly could only create difficulties and  
10 create dissention among the pilots themselves. There  
11 was a pilot in Ottawa who gave evidence of this on  
12 25th July, 1962, Volume 52, at page 1515 and following  
13 pages. After he had explained that he had been  
14 recommended as a special pilot to accompany by a  
15 Montreal pilot -- he was a pilot in the Quebec District  
16 -- he stated that he was given the details and then  
17 the following trip he was given to understand by  
18 the Montreal pilot that on the Monday morning he  
19 would be appointed. That is a case. Now, there are  
20 a good many cases. It was a question of friends, if  
21 you like. He had a friend; he had people brought  
22 in, and they had other friends and they brought  
23 them into the service; and a good many of them worked  
24 to get them out again, and so on and so forth.

25 This difficulty with special pilots  
26 wasn't only there in 1930; it was a problem that had  
27 been there since the very turn of the century; and  
28 if we read the reply of the Quebec pilots in regard  
29 to the 1913 Royal Commission, we will find, on page  
30 5, the following statement by the pilots:







French

1 "The abolition of our Corporation is  
2 merely a question of dollars and cents,  
3 nothing else. The shipowners try  
4 to be dispensed with paying some  
5 extra expenses to their selected pilots,  
6 and perhaps are hoping more than that.

7 "Let us make a suggestion and show them  
8 how they may get rid of that custom.

9 The only way is to give up the mode  
10 of selecting their men. Let all the  
11 pilots be on the tour de role, they  
12 have all the same knowledge, and thus  
13 will acquire the same experience."

14 This is 1914, and we had to wait for  
15 the end of the 1950's to finally come to the abolition  
16 of this system. Indeed, evidence has been given by  
17 Captain Langlois and Captain Rousseau to show that the  
18 special pilots system necessarily creates dissention  
19 amongst the pilots, and that the special pilots consisted  
20 of a sort of aristocracy within the organization of  
21 pilotage; and for all practical purposes they were  
22 the true representatives of the pilots, the ones who  
23 spoke in the names of the pilots, spoke on behalf  
24 of the pilots and who represented the pilots in the  
25 pilotage associations of the period.

26 We know from the historical review  
27 that, more or less like everyone else, the pilots  
28 suffered from the economic depression, but with  
29 this difference from the rest of the people, that  
30 they continued to be subject to economic grief in the







1 Second World War when there was a stopping up of  
2 economic activity in the Maritimes field and on the  
3 St. Lawrence. The Maritimes traffic was extremely  
4 reduced -- extremely low -- and the pilots who were  
5 not called upon to serve in the Merchant Navy at the  
6 time, or in the Canadian Navy, remained almost without  
7 work throughout those years. It was only after the  
8 War, from 1946, that there was a stepping up in the  
9 volume of maritime traffic on the St. Lawrence,  
10 and from 1945 onwards there was a progressive increase  
11 year by year -- a regular rhythmic increase -- in  
12 the volume of Maritimes traffic on the St. Lawrence.  
13 This increase was not in regular percentages, but  
E2 14 all the same there was a regular trend to increase.

15 If you examine the report published  
16 by the Bureau of Statistics, you will note that in  
17 1945 there were 3,163 ocean vessels coming in and  
18 4,041 coming in and going out; whereas in 1961 there  
19 were 5,639 and 6,666, respectively. There was a  
20 considerable increase in the number; the number of  
21 ships increased; there was an increase in the tonnage  
22 of the ships; the increase in the business exercised  
23 its effect, naturally, on the living conditions of  
24 the pilots during this period.

25 In 1930 there had been too many pilots  
26 on the labour market and a substantial and progressive  
27 reduction in this surplus number of pilots. The  
28 pilots begun in 1945 what we might call a 15-year  
29 misery -- that is, the 1930 to 1945 period -- and  
30 we then witnessed an increase in the number of





1 apprentices. The new apprentices came among the  
2 number of pilots gradually as those who had been  
3 apprenticed during the '30's became integrated with  
4 the core of pilots, and those apprentices who became  
5 new pilots were a real stream of new blood brought  
6 into pilotage.

7 We might say that the situation had  
8 been pretty stagnant from 1930 to 1945 and the  
9 apprentices grew old. The pilots during those years  
10 -- they were waiting to become licensed pilots, and  
11 no new apprentices were taken on over these years,  
12 or practically none were taken on.

13 In 1945, after this period of deep  
14 lack, we might say, there were younger ones coming  
15 in. There was a different generation from those who  
16 had been pilots -- those who were apprentices coming  
17 in after 1945; there was a new generation of men  
18 coming into the field, and this new generation of  
19 men, in a good many cases -- we had, among them,  
20 pilot apprentices who had been ship's captains,  
21 either merchant ships or military ships, or who had  
22 been officers aboard these ships; we had persons  
23 who had had very wide experience in different fields  
24 coming in, you might say, with new ideas, more  
25 severe requirements, than had the previous generation  
26 of men who had come into pilotage very young under  
27 the traditional formula governing apprenticeships,  
28 and who were within the traditional pilotage system  
29 before the '40's; and all of a sudden there was this  
30 new arrival of new men; and this could not be other-







1 wise than bring a breaking apart of the traditional  
2 relationship as between the pilotage groups.

3 To summarize, whereas previously there  
4 had been very frequently relationships -- family  
5 relationships -- amongst pilots, with the new  
6 apprentices to pilotage, this tradition now was  
7 broken; and at the end of the Second World War, and  
8 between 1945 and 1950, there was a new climate. We  
9 might say that the old regime of certain groups  
10 within the pilotage system disappeared, or was  
11 questioned -- its validity was questioned. I think  
12 this is a phenomenon which is a sociological one,  
13 which is of considerable importance in understanding  
14 the events which took place after 1950.

15 Facing this change in the composition  
16 where the pilots of the St. Lawrence, on the other  
17 hand, who had a kind of fixity, or a kind of  
18 stagnation in the relationship between shipowners  
19 and pilots' associations. The relations were still  
20 on the traditional basis, more or less. Captain  
21 Matheson gave evidence with a great deal of personal  
22 knowledge, and also with a great deal of sympathy.  
23 I recall when Captain Matheson related, for example,  
24 how, having heard the Quebec pilots wanted to ask  
25 the Canadian Service Guild to appear on their behalf  
26 to obtain a revision of tariff -- he decided to  
27 contact the chairman or the president of the  
28 pilots at that time -- pilot Brochu -- and to have  
29 an interview with Mr. Brochu on board a vessel  
30 that was going downstream in the St. Lawrence; and







1 Mr. Brochu met Captain Matheson and tried to change  
2 his mind, not committing his association in that  
3 field, and he said that it would be possible to reach  
4 an agreement according to the old traditional formula  
5 and to proceed with his project; and, in fact, it  
6 seems that there were certain meetings and finally  
7 agreement was reached -- I think.





1                   These relationships were the  
2 type of personal relationship  
3 and were relationships of the altruistic type between  
4 the shipowners and the pilots and I think that this  
5 is a type of relationship which, if it were worked  
6 on the basis of specialized pilots and agents and  
7 officers of the Shipping Federation, this system none-  
8 theless was obsolete and a system that could only  
9 be maintained on that basis.

10                   Now, which regard to this change and  
11 this is an aspect on the one part in the structure  
12 of the St. Lawrence pilots and, on the other hand,  
13 this is a kind of civility or a traditional approach  
14 in the relationship between the shipowners and the  
15 pilots; you must notice there was a considerable  
16 increase in prosperity in the whole of the Canadian  
17 economy which has started already entering the  
18 war years.

19                   This prosperity was evidenced by  
20 the increase in the income of pilots or rather --  
21 excuse me -- by the increase of the income of the  
22 population as a whole and improvement as well in  
23 the working conditions, the general working  
24 conditions within the population. For that matter,  
25 I would like to refer your Commission to the brief  
26 of the St. Lawrence River Pilots, Exhibit 671,  
27 the French text, at page 68 and following; for  
28 example, the Federal Bureau of Statistics on Table III  
29 where the average weekly hours worked are given for  
30 1947 to 1961 and you have a reduction in Canada of





1 44.1 hours per week to 40.6, and in 1961, in Quebec  
2 from 45.8 to 41.5 for the same period of time.

3 Besides that, you also have, aside  
4 from the increase in the income and the improvement  
5 of working conditions, you have an increase, a  
6 substantial increase in fringe benefits in all the  
7 different segments of the economy indicated by  
8 contributions by the employers to pension funds, to  
9 health insurance plans and to expense analysis. All  
10 these fringe benefits have increased during the same  
11 period and this is the same period. It is also the  
12 same in the field of transportation in general,  
13 and also in the maritime field as well.

14 I would like to refer the Commission  
15 to the exhibit which was filed by the Shipping  
16 Federation which is included in Volume 2 of Exhibit  
17 E-726 at page 86.

18 You will find the brief by the  
19 United Montreal Pilots by an economist -- or rather  
20 two economists -- that had been hired by the United  
21 Montreal Pilots, Mr. Jean-Marie Martin and Mr. James  
22 Hudson from Quebec.

23 On page 86, one notices that the  
24 index of the net income of first mates of vessels  
25 of the Canadian National Steamships went from --  
26 to use 1938 as a basis of 100, it went from 100  
27 in 1938 to 327 in 1957, while the index of pilots'  
28 earnings was only 182.9. It went to 123 in 1947 --  
29 I am sorry. In 1947 it was 123 while it was 100  
30 in 1938 and it went to 213 in 1948 and 327 in 1957.







1 Now, if we take the index for the  
2 income of engineers on passenger trains, it went  
3 from 100 in 1938 to 230 in 1949 and 472.7 in 1957.

4 The index for the average weekly rates  
5 for male employees of the C.P.R. went from 100 in  
6 1938 to 211 in 1948 and finally, in 1957, it reached  
7 a figure of 355.

8 Throughout that period, the earnings  
9 of pilots has not followed the same trend or the  
10 same curve.

11 Quoting still on page 86 of Volume 2  
12 of the Shipping Federation brief, you will notice  
13 that the index, if it was 100 in 1938 goes to 138.3  
14 net in 1938 as compared with 213 for the first mates  
15 of the Canadian National Steamships and 211 for the  
16 employees of the C.P.R.

17 In 1949 it was 105.4 as compared to  
18 230.9 for engineers on trains and 227 for C.P. employees  
19 and in 1957 it was 182.9, as compared to 327 for  
20 first mates of the Canadian National Steamship and  
21 472.7 for engineers of passenger trains and 355 for  
22 the main wages of the male employees of the C.P.R.

23 So, this was historically the text  
24 for the early '50's. You had a new generation of  
25 men arriving on the scene today and the type of  
26 relationship with the shipowners, which was of a  
27 traditional nature, the working relationship was  
28 already obsolete. You were facing this considerable  
29 increase of prosperity of the Canadian economy and  
30 you had an increase which was far more restricted and





French

1 far slower in the working conditions and economic  
2 conditions of pilots.

3 It was a fact that one must not think  
4 only about the economic condition. We must also  
5 think about the working conditions as a whole and the  
6 work in general.

7 In 1950, the working conditions were  
8 not greatly different from those that existing in the  
9 year 1930 in the field of pilotage when they were  
10 piloting from Father's Point to Quebec and from Quebec  
11 to Montreal in one go, to quote an example.

12 These again are the true causes for  
13 the difficulties that took place after 1950. After  
14 we have given this historical explanation once more,  
15 there was a long period of economic difficulties  
16 from the period 1930 to 1945 and after 1945 a new  
17 generation of men had come on the scene to continue  
18 the traditional relationship with the shipowners, and  
19 also there was very slow improvement in the working  
20 conditions of pilots.

21 The causes of their difficulties in  
22 1950 are of three types: the first of these is represented  
23 by the wishes which I should qualify as the legitimate  
24 wishes or desires of the pilots to improve their  
25 working conditions. The second cause I identify  
26 as being the ultra-conservative attitude of the  
27 shipowners in their relationships with pilots and,  
28 the third cause I will try to indicate, stems from  
29 the inefficiency of pilotage administration.

30 Let us, first of all, study the first





1 cause: it is the desire on the part of pilots  
2 of improving their working conditions.

3 I refer the Commission once more  
4 to the same exhibit I quoted previously, that is  
5 726, the second volume of the brief of the  
6 Shipping Federation, and more especially, on pages  
7 86 and 87.

8 You will notice, first of all, that  
9 the pilots' financial status -- that it was felt  
10 it was very normal on their part, they would want  
11 to improve their financial status. Consequently,  
12 quoting page 87, as compared to 1938, the pilots  
13 of the Montreal District had a net income, a real  
14 income -- that is in regard to the cost of living --  
15 a net income; a real net income in 1950 which would  
16 compare with 1938 which I note has net earnings per  
17 change in cost of living in the Montreal District  
18 for 1938 was \$3,734, and in 1950 it became \$3,540,  
19 and in 1951 it became \$3,216, and in 1952 it became  
20 \$3,891.

21 As in the case of Montreal, a similar  
22 study could not be made about the earnings of the  
23 Quebec District pilots, and even pilots who are  
24 above Montreal, and to compare the years between  
25 1938 and 1952 above Montreal will be practically  
26 impossible to do; to compare those two figures, because  
27 we do not have any figures regarding the pilots'  
28 earnings at that time for this particular District.

29 Aside from this financial status,  
30 you also have the difficult situation regarding working







1 conditions and the exercising of pilotage duties.

2 Let us compare the Straits of Montreal and Quebec:

3 I did mention before, in Quebec the reduction in the  
4 pilotage trip in Quebec and Montreal Districts during  
5 that period.

6 I also refer to the problems raised  
7 by the exercising and administration of pilotage,  
8 because of this special pilots system.

9 I refer the Commission to the evidence  
10 given by Captain Rousseau, given in Quebec on the  
11 18th of September, 1963, and which would indicate  
12 in Volume 66A, pages 8,145 and following.

13 Mr. Jacques, questioning Captain  
14 Rousseau said:

15 "Q. Why were you against the regime  
16 of the special pilots while you were  
17 one yourself, one of them?

18 Isn't it true that special pilots have  
19 a higher income than the ordinary  
20 or turn pilots when you were a special  
21 pilot?

22 "A. To say that there was higher  
23 income, it is difficult to say so,  
24 because there were certainly more  
25 expenditures to face when a pilot was  
26 attached to a company. There was,  
27 of course, a higher salary.

28 "Q. Well then, why did you endeavour  
29 to get abolished this regime of special  
30 pilots?





1 "A. Well, I sincerely believed that  
2 this regime wasn't necessarily good  
3 and, in the interests of my colleagues  
4 in the organization, and even the  
5 companies, I would say.

6 "Q. Why was this regime harmful to the  
7 companies?

8 "A. Well, this regime was not good  
9 for the companies, because one of  
10 my colleagues said here a few days  
11 ago, the choice of selection of special  
12 pilots wasn't done according to the  
13 competence or seniority, but was done  
14 as this colleague has said, and I will  
15 repeat it now, was done between the  
16 friends, so that in many instance there  
17 were special pilots who should not have  
18 been special pilots. On the other  
19 hand, there were a good number of  
20 those special pilots who were good  
21 people, myself excluded."

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1 "Q. To what extent was this regime  
2 of special pilots harmful to pilotage?

3 "A. It is my opinion that this system was  
4 used to divide the group of pilots  
5 because part of the pilots were  
6 attached or bound to companies and  
7 second to the Pilotage Authority and  
8 thirdly to the Association, therefore,  
9 these people didn't have two bosses  
10 but three bosses."

11 Obviously this was said jokingly,  
12 referring to the statement in the Shipping Federation  
13 brief about pilots having two bosses, the Authority  
14 and the Corporations.

15 So you had these difficulties in  
16 Montreal, and the situation was not very much better  
17 below Montreal. You had in the '50's a system of  
18 individual working contracts with agents. In the  
19 early period at the beginning of each year, the pilot  
20 got in touch with an agent company, and had his  
21 annual contract renewed or not, as the case might  
22 be. This system of working contracts on an individual  
23 basis could only produce competition amongst pilots,  
24 and in the second place, it creates insecurity of  
25 employment because the pilot never knew, he was never  
26 sure that the following year he would be employed  
27 by one agent or another agent.

28 At the same time, a little bit later  
29 during the year 1958 in particular, there were  
30 pressures exercised on the pilots by the Pilotage Authority







1 of the Department of Transport so as to encourage  
2 or induce, I should say to induce the pilots to  
3 come under the Civil Service system, to become  
4 employees of the state as prevailing rate employees.

5 I refer to the evidence of Mr. Saucier,  
6 Volume 87, page 10,879.

7 During all this period below Montreal  
8 there was no guarantee of employment or stability  
9 of employment, and during all this period there was  
10 the possibility, the constant possibility, of  
11 competition exercised by the United States pilots.  
12 The evidence of this is the case where the United  
13 States pilots occasionally came on ships right to  
14 Montreal during this period.

15 Therefore you had during the first  
16 part of the '50's both at the financial level and  
17 working conditions, a situation among the pilots  
18 which was most unsatisfactory to them, to say the  
19 least, and this could only have an effect on the  
20 pilots' associations and on the whole corps of  
21 pilots.

22 First of all there were pressures,  
23 perfectly normal pressures, exercised within the  
24 Associations for an improvement in working conditions  
25 and improvement in the pilots' lot, and these  
26 pressures were exercised by pilots who were not  
27 special pilots.

28 Now, as I mentioned a moment ago, and  
29 this was given as evidence, the special pilots were  
30 in practice, generally speaking, those who were at the





1 administrative office of the Pilotage Associations,  
2 and the only result was a marked increase in the  
3 situation of conflict within the pilots' groups, and  
4 each time there were improvements granted to special  
5 pilots and they were not granting to other pilots --  
6 an increase in revenue, an increase in rates -- obviously,  
7 whenever this situation arose, there naturally were  
8 new tensions and there was a new desire for change  
9 felt.

10 If I may now refer to the situation  
11 below Montreal: you have a desire of collective  
12 action on the part of pilots which became quite  
13 evident. It is obvious the situation under which the  
14 pilot individually went to negotiate his own  
15 working contract at the outset of each spring,  
16 certainly this was not a satisfactory condition, and  
17 the pilot sought new ways of arriving at his  
18 way of working together and negotiating collectively,  
19 and thus, you had the setting up of Associations  
20 of Great Lakes Pilots, an association of which you  
21 have heard a great deal of talk, which has disappeared,  
22 and you had at certain periods the intervention of the  
23 International Organization of Masters, Mates & Pilots,  
24 represented by Captain Rolla Johnson. You had  
25 also, at other periods, or at the same time the  
26 desire of the pilots to go to the Canadian Merchant  
27 Service Guild, and you had the setting up of  
28 corporations from 1958 onward; 1957, 1958.

29 So the mere fact that we note within  
30 a period of two or three years, or even one or two years,





1 this tremendous increase in the number of associations  
2 within the body of pilots in the Montreal-Kingston-  
3 Ottawa area shows there certainly was a tremendous  
4 seething within the body of pilots in the period  
5 seeking to improve working conditions, and seeking  
6 to establish new negotiation formulae, new methods  
7 of being represented before the shipowners and  
8 before the Pilotage Authorities.

9 To summarize, therefore, in the period  
10 there was a need for more co-ordinate action, more  
11 efficient action within all the pilots' groups on the  
12 St. Lawrence. And the pilots, furthermore, during  
13 this period, during the last part of the 1950's,  
14 decided to seek expert help from outside their own  
15 group so that they might re-organize themselves  
16 and might negotiate with the shipowners and with the  
17 Pilotage Authorities.

18 They therefore engaged the services  
19 of economists and others. Thus, over a period of  
20 four or five years, from 1955 to 1960, there was a  
21 very considerable change within the pilots'  
22 organizations on the St. Lawrence. First of all,  
23 there was the setting up of the pilots'  
24 corporations in certain cases, after attempting  
25 several other formulae as was the case above Montreal;  
26 there was then the abolition of the special pilots  
27 system in the Montreal and Quebec areas; there was  
28 then the setting up of a system of apprenticeship  
29 adapted to modern conditions governing pilotage,  
30 or which constituted a substantial progress over the









1 conditions in the previous period.

2 There was, at the same time as the  
3 agents created all this ferment, the rise of a new  
4 generation of pilots that were not bound to the  
5 traditional institutions governing pilotage.

6 To summarize, in pilotage from 1955  
7 in positions of responsibility you had men who had  
8 gone into pilotage after the war, who had been pilots  
9 for four or five years and for ten years, and they  
10 were coming to positions of management within the  
11 pilots' groups, and this was bringing about a neces-  
12 sary and important change in the pilots' groups.

13 Then, during this period what we were  
14 witnessing was a transformation of the whole structure  
15 of pilotage in a progressive manner. This change  
16 might have been possible if all the interested  
17 parties, not only the pilots, but shipowners as well  
18 and the Pilotage Authority, the Government, had been  
19 able to adapt to new conditions and receive, reason-  
20 sonably, the necessary changes, the necessary amend-  
21 ments.

22 Now, in my view this is the basic  
23 reason for all the difficulties that led to the  
24 setting up of this Commission.

25 There was, indeed, either a refusal  
26 or negligence by other interested parties in adapt-  
27 ing to the changes in the field of pilotage. I  
28 do not seek to claim that the pilots are as white  
29 as the driven snow, or that they did not make  
30 mistakes on occasion. I should not like to claim that





1 my position be interpreted in this way. They are  
2 human beings. They are men who are not experts in  
3 the social organization. They were men who were  
4 sailors, who were performing a very difficult  
5 profession, and their working conditions were very  
G2 6 behind the working conditions in the rest of the  
7 body of society, and they wanted to improve their  
8 lot by the best means that they could.

9 What I do claim is that the main  
10 reason for these difficulties is not, primarily,  
11 the establishment of pilots' organizations; nor can  
12 it be imputed to the pilots themselves. I think this  
13 difficulty must be sought, rather, in the refusal  
14 of the other interested parties to adapt to the  
15 new conditions.

16 It is very evident, it is very clear,  
17 and this I consider to be the prime factor, the basic  
18 reason for the difficulties that have arisen: this  
19 refusal to adapt because it is very clear it would  
20 have been quite possible that there be no difficulty  
21 if the pilots had been completely passive; if they  
22 had accepted passively the progressive deterioration  
23 in their lot, as compared to the lot of the other  
24 bodies within society as a whole. Obviously there  
25 would have been no difficulties in regard to the other  
26 parties. The shipowners would have continued as they  
27 had done previously, and the Pilotage Authorities  
28 would have continued, indeed, more or less washing  
29 their hands of the situation; leaving the shipowners  
30 and pilots to go ahead as they had done previously.





1 I think that pilotage, while it is a  
2 profession, it is at the same time, perhaps, a  
3 vocation, and it is not a vocation in which we require  
4 moral heroes, necessarily, and the pilots should  
5 not necessarily be called upon to act as monks, and  
6 it was quite normal that like all other groups in  
7 society the pilots should have sought to keep abreast  
8 of the economic progress of the people as a whole.  
9 Indeed, it was in view of this refusal of the  
10 other interested parties to adapt to changing conditions  
11 that we must try to view the difficulties that arose.

12 The first cause, obviously, of these  
13 difficulties, was the desire of the pilots to  
14 improve their working conditions. If the pilots  
15 had just sat at home twiddling their thumbs, there  
16 would have been no problems. I think it is expecting  
17 too much to expect them to do that, and with your  
18 permission, my lord, I will continue the examination  
19 of the other causes after the recess, if possible.

20 THE CHAIRMAN: We shall recess until  
21 two o'clock this afternoon.

22  
23 --- Luncheon adjournment.  
24  
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W/rps1 --- Upon resuming at 2:00 p.m.

2 MR. LALONDE: Before the noon recess,  
3 I had indicated that I thought that there were three  
4 different causes for bringing about the situation  
5 existing in the field of pilotage in 1962. The  
6 first of these causes was the desire of pilots  
7 to improve their situation, or their lot, during the  
8 '50's; and I stated that behind this desire, or this  
9 wish -- which was a great cause of the difficulties --  
10 was the refusal, or the neglect, of the other  
11 interested parties to adapt themselves and to follow the  
12 developments in the field of pilotage. This refusal  
13 and this neglect took two forms: in the first place,  
14 there was the ultra-conservative attitude, or  
15 approach, of the shipowners, and, on the other hand,  
16 what I call the paternalistic approach of the  
17 pilotage administration.

18 As regards the first point, I think,  
19 in fact, that throughout the whole period the  
20 shipowners have rather adopted a retrograde opinion  
21 about the relationship which exists between shipowners  
22 and pilots, and this was indicated in many different  
23 ways: In the first place, the inadequate definition  
24 of pilot's status. The shipowners, in their approach  
25 to the pilots, where assimilating, or giving the  
26 status of simple employees to pilots. For example,  
27 in Exhibit 726, the brief of the Shipping Federation,  
28 on page 90, it is stated:

29 "It is the policy and aim of the  
30 Shipping Federation to have, for the





1 "movement of traffic, competent and  
2 reliable pilots, and it is an equally  
3 firm policy of the Shipping Federation  
4 to provide wages . . . " -- and I under-  
5 line "wages" ---

6 " . . . and working conditions in the  
7 pilotage service which would be  
8 rewarding and attractive to competent  
9 men."

10 Then, at page 138 of Volume 2 of Exhibit  
11 726 there are certain similar assertions, in the book-  
12 let published by the Shipping Federation in 1960.  
13 At page 63 you will notice the same statement being  
14 repeated:

15 "It is the aim and policy of the Federation  
16 to have available, for the movement  
17 of traffic, competent, reliable pilots,  
18 and it is an equally firm policy of the  
19 Shipping Federation to provide wages  
20 and working conditions in the pilotage  
21 service which would be rewarding and  
22 attractive to competent men. It is  
23 the belief of the Federation that these  
24 standards of wages and working conditions  
25 are being met . . ." et cetera.

26 Then, page 6 of the same booklet:

27 "It is wrong in practice . . . "

28 Well, I will quote the whole paragraph:

29 "The present system of arriving at  
30 tariffs to pay pilots is wrong in





1 "principle and conflicts with the  
2 established practices of sound business.  
3 It is wrong in practice because it  
4 involves estimates of variable trade  
5 patterns to provide pilotage funds.  
6 Since employee income is involved,  
7 low estimates are subject to upward  
8 adjustments; high estimates are  
9 difficult to reduce."

10 This definition -- this inadequate  
11 definition -- of the status of pilots has, of course,  
12 an important consequence when we get to the point  
13 of negotiating and discussing with pilots.

14 In the final analysis, one could say  
15 that the same policy was adopted towards the pilots  
16 as existed towards the sailing masters on the Great  
17 Lakes. Captain Matheson, in answer to a question of  
18 Mr. Brisset, page 17,179 in Volume 134, stated --  
AA2 19 this was in answer to a question by the Chairman:

20 "Did you have the right to strike  
21 them off the tour de role list; that  
22 is, not employ them any longer as  
23 sailing masters?

24 "THE WITNESS: Well, for misbehaviour  
25 or refusing turns without justification  
26 we certainly assumed that right, whether  
27 we were correct in doing so or not.

28 "THE CHAIRMAN: So, in other words,  
29 you acted as employer?

30 "THE WITNESS: We acted as employer.







French

1 "THE CHAIRMAN: And the pilots are  
2 sailing masters as employees?

3 "THE WITNESS: Absolutely. There was  
4 an arrangement -- to further explain  
5 the situation, we had in the arrange-  
6 ment -- I recall now -- we sent cheques  
7 to the Kingston office . . . " et cetera.

8 This definition of the relationships between employer  
9 and employee existing between the shipowners and  
10 the pilots had a great deal of impact in the negotiations  
11 carried on between the pilots and the shipowners and  
12 the groups of associations, and this was shown by the  
13 certain type of approach -- the relationship -- between  
14 the shipowners and the pilots, referred to by  
15 Captain Matheson and Mr. Brochu in negotiations; and  
16 you might care to check this in Volume 98A on pages  
17 of evidence 12,251 and 12,252 -- that this would  
18 appear, in fact, to be the general atmosphere or  
19 climate within which the relationships of shipowners  
20 and the pilots to place.

21 Here I would like to refer to the  
22 evidence in Volume 109 of February 17th, 1964, and  
23 to the evidence of Captain Hamelin at page 13,704,  
24 where Captain Hamelin talks about the atmosphere  
25 within the negotiations. He was asked:

26 "Q. Now, Mr. Hamelin, I understand  
27 you have been active in the pilotage  
28 business for several years. Did you  
29 participate in discussions or  
30 negotiations with representatives of





1 "the Shipping Federation in the middle  
2 '50's, or before?

3 "A. Yes.

4 "Q. Approximately what year did you  
5 participate in such negotiations?

6 "A. In 1954, 1955.

7 "Q. Yes. Would you explain to the  
8 Commission how those meetings took  
9 place, what procedure was followed and  
10 how generally it worked at the time?

11 "A. Well, we would be given an appoint-  
12 ment to meet with the Shipping Feder-  
13 ation people at a certain time and we  
14 would get to the appointed place on  
15 time and sometimes we would be kept  
16 waiting there half an hour or 45 minutes  
17 before they let us come in, and on some  
18 occasions, I mean, we would make an  
19 appointment to discuss a certain problem  
20 or tariff and we would never get the  
21 chance to discuss the subject.

22 "They would not even let us present  
23 our point of view probably. Of course,  
24 we were not very able in those days;  
25 we didn't have -- we would do that all  
26 by ourselves. Of course, we were not  
27 really competent to do so so I suppose  
28 that was the result.

29 "Q. Where did those meetings take place?

30 "A. At the Board of Trade Office of the





1 "Shipping Federation.

2 "Q. Were the representatives of the  
3 Department of Transport at those meet-  
4 ings at the time?

5 "A. Always. Most of the time they  
6 were there before us.

7 "Q. You mean to say when you walked  
8 in they were present there?

9 "A. Yes.

10 "Q. Did they participate actively  
11 in the meetings?

12 "A. Sometimes, yes. Sometimes ---

13 "Q. Who was chairing these meetings?  
14 Was it a Department of Transport official?

15 "A. No, Mr. Boyle was in one instance  
16 and ---

17 "Q. Would you state for the record  
18 who Mr. Boyle was?

19 "A. He was Jimmy Boyle. He was at  
20 the time, I think, his function was  
21 president of Pilotage Committee of the  
22 Shipping Federation. . . "

23 Then, just a little bit further -- I think this is  
24 worth quoting ---

25 "Q. You said you had these meetings  
26 and you felt they were not producing  
27 much effect. Were you ever asked to  
28 present your case in a better way or  
29 organize yourself otherwise?

30 "A. Yes. I don't recall the name of







1 "the gentleman to my right, sitting on  
2 my right. He told me -- I guess he  
3 felt embarrassed for us, the way we were  
4 presenting our case -- he told me -- he  
5 said: 'Young man, the next time you come  
6 back get organized properly. Get some-  
7 one to do the speaking for you,' so from  
8 that time on we decided we would never  
9 go back to the Shipping Federation unless  
10 we had someone especially able to speak  
11 for us.

12 "Q. Was it a Department of Transport  
13 official?

14 "A. No.

15 "Q. Was that the one that spoke

16 "A. No, he was a member of the  
17 Federation. It was very good advice  
18 his part, too, if I may say . . .

19 So it was in such an atmosphere, or such a climate,  
20 that negotiations took place between the shipowners  
21 and the pilots; and, finally, as the witness indicated,  
22 the pilots decided to organize themselves and to  
23 see to it that they be allowed to speak on an equal  
24 footing with the other interested parties.

25 The paternal type of relationship  
26 which existed is also demonstrated in Volume 2 of  
27 Exhibit 726 on page 10 of Schedule 3. This is a  
28 telegram in 1957 from Mr. Dudley Page, President of  
29 the Shipping Federation of Canada, to The Honourable  
30 George Hees, and in this telegram it is stated:





" . . . OCEAN VESSELS IN GREAT LAKES  
TRADE OF FEDERATION AFFECTED BETWEEN  
TODAY AND CLOSE OF NAVIGATION CONSERVAT-  
IVE ESTIMATE FORTY TO ENTER AND  
SEVENTY-ONE TO CLEAR CANAL. UNDERSTAND  
PILOTS MEETING CALLED FOR TOMORROW  
WEDNESDAY AT QUEEN'S HOTEL AND YOUR  
DEPARTMENT OFFICIALS EXPECTED TO ATTEND.  
FEDERATION CONSIDERS THIS STOPPAGE  
UNWARRANTED AND SO SERIOUS THIS TIME OF  
YEAR THAT ESSENTIAL YOU AND YOUR  
DEPUTY MINISTER ATTEND SCHEDULE MEETING . . ."

So that where the shipowners were not able to reach  
an agreement directly they always gave instructions  
to meet the Department of Transport to say that the  
pilots follow the wishes or the instructions of the  
shipowners. But I would like to stress this regimented  
approach between the shipowners and the pilots by the  
attitude of the shipowners towards Canadian pilots  
generally and more particularly regarding pilots in  
the St. Lawrence and Great Lakes.

If we refer to Volume 2 of Exhibit 726,  
we find on page 98 a letter addressed by Captain  
Matheson to Mr. Alan Cumyn on January 7th, 1959,  
under the title "CONFIDENTIAL," and I quote the follow-  
ing paragraph:

"It is the opinion of the Federation  
that such a procedure as suggested by  
Mr. Gerin-Lajoie would in fact be  
creating a closed shop for pilots, in that





1 "all pilots would have no alternative but  
2 to join the Corporation. As far as  
3 can be ascertained, other by-laws which  
4 the Corporation may adopt would not  
5 only be confined to monetary matters.  
6 This proposal, therefore, of the United  
7 Montreal Pilots would have an effect  
8 of limiting the authority of the Minister  
9 of Transport and giving the Corporation  
10 complete authority over the District.  
11 It is suggested that such a development  
12 should be strongly opposed by your  
13 Department. . . "

14 Then, in 1959 the Shipping Federation  
15 addressed itself to the Department of Transport,  
16 putting pressure on the Department so that the  
17 Department would prevent the establishment of Corpora-  
18 tions or Associations of Pilots, and especially the  
19 Corporation of Pilots in the Montreal District.

20 This attitude towards pilots' organ-  
21 izations was evident in many different ways, and I  
22 would refer you to Volume 102, pages 12,716 and 17,767  
23 and 12,768 where Captain Matheson states that the Shipping  
24 Federation has paid the fees of a pilot who had a  
25 case pending with the Corporation; and I refer here  
26 to the case of Captain Donnelly.. If we had had to  
27 deal with ordinary relationships within industry  
28 between employer and employee, I know how the  
29 behaviour of the employer who would thus finance the  
30 trails of persons with their unions or their associations







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1 representing them would be qualified.

2 Let us also look at the way in which  
3 the Shipping Federation makes its approach towards  
4 sailing masters and the pilots in the Welland Canal.

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1 In Volume 137, page 17,635, you will  
2 notice, according to Captain Matheson's evidence,  
3 on two occasions the Shipping Federation, which has  
4 succeeded in literally destroying the Great Lakes  
5 Pilots Association, the Shipping Federation tried  
6 on two occasions to establish pilots associations.  
7 I refer to an organization called the Ontario Marine  
8 Pilots Association and another organization which it  
9 seems, according to his evidence, would have been  
10 called the Corporation of Port Weller, Sarnia Pilots.

11 Moreover, I refer the Commission to  
12 Volume 137 once more, on pages 17,597 to 17,605 as  
13 well as Volume 136, pages 17,414 and following, where  
14 the Shipping Federation . . . (word inaudible) . . .  
15 the establishment of an Association of American  
16 Pilots into the Lake Superior Pilots Association and  
17 this, supposedly called Pilots Association, whose  
18 Secretary was a maritime agent of one of the counsel  
19 whose services were being obtained by an agent of  
20 the Shipping -- then an employee of this agent as  
21 well as a pilot.

22 Now, let us look at the attitude that  
23 was taken by the shipowners and the Shipping Feder-  
24 ation with regard to the pool of pilots. I refer  
25 the Commission to the brief of the Shipping Feder-  
26 ation, page 27.

27 It is a submission of the Shipping  
28 Federation that the Minister is still able, under the  
29 Act, to direct that the payment of pilotage dues  
30 shall be made to the pilots employed and no other,





1 irrespective of the fact that the pilot may have  
2 transferred his earnings to a corporation.

3 In practice, therefore, what does this  
4 mean? This means quite obviously that we are going  
5 to have the abolishment of the pool. It is perfectly  
6 clear that if the Pilotage Authority is put in such  
7 a situation where, whatever the pilots decide, there  
8 will be a direct payment made to the pilot, irrespect-  
9 ive of whether the pilot be given authority to remit  
10 these pilotage dues to an association or a corpor-  
11 ation, what we come to in practice is the abolishment  
12 of the pool.

13 Finally, then, what are we coming to?  
14 We are coming back to the Parquette affair of  
15 1929, (sic) which was decided in the Privy Council,  
16 the 1919, 1920 case and we are coming back to the  
17 Royal Commission Report of 1913. I regret to note  
18 that the Shipping Federation seems to want to bring  
19 the pilots back to that era in their history.

20 Well, this seems to me very difficult  
21 to understand. The Shipowners themselves, and the  
22 Shipping Federation, when they set up this Great  
23 Lakes - Superior Pilot Association created a pool.  
24 The pilotage dues were collected by this Association  
25 and the Shipping Federation, insofar as I am aware,  
26 raised no objection whatsoever to the establishment  
27 of a common pool of United States pilots on the Great  
28 Lakes.

29 Why would the situation be different  
30 on the St. Lawrence? Why, suddenly on the St. Lawrence,







1 should the pool system be so dangerous; become  
2 invalid; become unacceptable; whereas everywhere in  
3 the world where pilots are free entrepreneurs and not  
4 sourly demand, for the purposes of argument, everywhere  
5 this pool is an accepted institution, at least in  
6 all the pilotage districts I have studied.

7 This is not a new phenomena. This  
8 is something that dates back to centuries ago. This  
9 is a very old system in the operation of pilotage.  
10 I will come back to this question a bit further on.

11 This attitude of opposition, with  
12 regard to the Canadian Pilots Corporations and  
13 Associations, becomes very evident, throughout the  
14 brief of the Canadian Shipping Federation, Exhibit 726.  
15 Not only is a corporation condemned as such, but  
16 certain things are imagined. The worst is feared.

17 On page 30 of the brief, it states:

18 "The Shipping Federation of Canada feels  
19 it is justified in believing that out of the earnings  
20 of the pilots strike funds are now established and  
21 it is recommended, for instance, that the present  
22 Commission make a very thorough investigation of the  
23 circumstances of the pilots' strike in April 1962, --"

24 Well, the Commission has had an  
25 opportunity to make its examination and the Shipowners  
26 have been able to put the questions they wish in this  
27 regard, and nowhere has anyone found any evidence  
28 whatsoever, any indication that this was the case.

29 So, the Shipping Federation has,  
30 therefore, adopted with regard to pilots' corporations,  
an attitude which is a paternalistic one and also  
a most negative attitude.

It has attempted to prevent the setting





1 up of the pilots' corporation. They are free citizens  
2 like everyone in this country and these corporations  
3 were merely corporations set up under Part II of  
4 The Federal Companies Act. Corporations, companies,  
5 that anyone may set up in this country, provided The  
6 Companies Act be respected; so why, in the case of  
7 a pilot were they to be prevented from setting up  
8 such corporations?

9 This fear of the corporations of  
10 pilots has led to results in the relationships between  
11 Shipowners and pilots. It is obvious the pilots,  
12 seeing how negative was the attitude of the Ship-  
13 owners towards corporations, should have felt that  
14 they had to adopt certain precautions. They felt  
15 an attempt was being made to break down their basic  
16 rights and, on the other hand, the Shipowners, seeing  
17 the development of these monsters, as they imagined  
18 the corporations to be, adopted an attitude that  
19 was most intransigent. They seemed to be so obvious;  
20 the end of the world was coming to us, and they  
21 absolutely had to prevent the development of these  
22 organizations. This intransigent attitude on the  
23 part of the Shipowners did not develop all of a sudden  
24 when the corporations were set up.

25 Indeed, we may find examples. To take  
26 the case of the abolition of the special pilots system,  
27 it took over 40 years for the pilots to obtain this  
28 system.

29 I quoted this morning a reply by the  
30 Corporation of Pilots of Quebec in 1914. We had to wait





1 till 1960 to come to the end of this system. The  
2 Shipping Federation progressively, finally admitted  
3 that the system should be wiped out and Captain  
4 Matheson mentioned, perhaps, you have had different  
5 schools of thought within the Shipping Federation  
6 about this and it took them 40 years to admit to the  
7 truth of the advantages of the new system.

8 The same is the attitude in regard  
9 to the setting up of a pilotage station to change  
10 pilots at Three Rivers. What happened? The Ship-  
11 owners opposed this change. This change was opposed  
12 last by a Pilotage Authority, and the Shipowners,  
13 according to Captain Matheson when he gave his  
14 evidence, stated that after certain experience, that  
15 he found that the views of the Shipping Federation  
16 were certainly not justified. Finally, this change  
17 was finally won after a long struggle by the pilot.  
18 All experience proves now the situation is an  
19 eminently reasonable one.

20 The intransigence of the Shipowners  
21 became clear during the sailing masters' strike, the  
22 pilots' strike on the Great Lakes at the time of  
23 this work stoppage I refer the Commission to in Volume  
24 134 at page 17,248, and in Volume 137 at page 17,628  
25 and 17,630. We would soon reach these objectives  
26 if the numerous efforts of solution and mediation  
27 were adopted to saw off the conflict that had arisen  
28 in that case. In particular, at page 17,630:

29 "Q. Now, nevertheless you proceeded with  
30 your scheme eventually and when there







1 "was a strike or lock-out, according  
2 to the point of view of the pilots  
3 concerned, in effect then there were  
4 representations made to the Shipping  
5 Federation by the Department of  
6 Transport; by the Mayor of Chicago;  
7 by Dominion Marine Association, for  
8 some form of mediation or an inquiry  
9 into the matter."

10 And what did the Shipping Federation  
11 do at that time? The Shipping Federation absolutely  
12 refused any type of inquiry and any type of mediation,  
13 and, in this inquiry, it maintains its position  
14 in a most definitive way.

15 I would like, also, to refer to the  
16 events before the work stoppage of 1962 on the  
17 St. Lawrence. I refer the Commission to Volume 94,  
18 page 11,701 and 11,702; and Volume 102A, page 12,747  
19 and Volume 107, pages 13,366 and 13,367. I am  
20 now referring to the fact the Shipping Federation  
21 had adopted a most categorial attitude. It had  
22 refused any type of true negotiation, any concession.  
23 The pilots finally decided on a work stoppage.

24 Mr. Colley is stated at page 13,366:

25 "Q. So if I understand the situation  
26 at that time the collision ---"

27 I think that refers to the work  
28 stoppage --- "was almost welcome -- the impact which  
29 took place between the pilots and the  
30 Shipping Federation; am I right?





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1 "A. Let me say this, if I must  
2 make a serious comment. We would never  
3 welcome a strike -- never. Looking  
4 back at it one has to also look at the  
5 consoling factors, and the consoling  
6 factor, as previously explained, was  
7 that the strike presented a crisis  
8 and the crisis led to the appointment  
9 of a Royal Commission. For this  
10 solution, of course, we were very thank-  
11 ful. But to say we would ever welcome  
12 a strike, of course, is completely  
13 wrong."

14 The question we put to ourselves is  
15 whether, without hoping for a work stoppage, the  
16 Shipowners had not hoped there would be a crisis  
17 as such that a Royal Commission would have to be  
18 founded, such as the one that is now sitting.  
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3 This intransigence of the Shipowners,  
4 with regard to the requests put by the pilots has  
5 been evident in other cases. Examine the requests  
6 submitted by the pilots of Quebec for the setting up  
7 of port pilots in Quebec. This request is not new.  
8 It is an old one, and I refer to Volume 2 of Exhibit  
9 726, at page 186.

10 This is what the Shipowners found to  
11 reply to this proposal which had been made by the  
12 Quebec pilots at the time of the negotiations, the  
13 different negotiations in January, before the Shipowners  
14 and the Pilotage Authorities. The Quebec pilots  
15 had submitted a request to this effect. Mr. Colley  
16 was replying in the name of the Shipping Federation  
17 to the Minister, Leon Balcer.

18 "The pilots have again raised the  
19 question of docking pilots in Quebec,  
20 something which is not required and  
21 is obviously another means used on the  
22 part of pilots to extend their feather-  
23 bedding practices. There is no reason  
24 why a river pilot should not dock and  
25 undock a ship in the Harbour of Quebec  
26 where most berths are open berths."

27 This is what the Shipping Federation  
28 found most intelligent to answer to this proposal  
29 which had been made serious for quite a good number of years  
30 by the Quebec pilots.







1 We needed, finally, to have this  
2 set up of this Royal Commission to see that the  
3 Quebec pilots can come and talk about the advantages  
4 and conveniences of this project.

5 What do these witnesses say? We have  
6 had some witnesses from the Shipping Federation,  
7 representative of the Cunard Company. I would refer  
8 you to the evidence of Captain Rosier in Montreal,  
9 and also the evidence of Captain Brodey of Quebec,  
10 Volume 108, page 13,863 and following; and Volume 51A,  
11 and those persons finally said that if the  
12 Shipowners could obtain services without paying  
13 additional costs or free-of-charge, this would be  
14 a very good idea, and there would be advantages to  
15 that by precluding delays and could obtain substantial  
16 savings. I also refer to the evidence on page 6,021  
17 where it is stated that the only one delay that  
18 caused his damages to the tune of more than many  
19 thousands of dollars and the evidence was, at that  
20 time, the damages caused by this delay would amount  
21 to a figure of \$4,000. If there had been a harbour  
22 pilot or docking pilot, these damages would not have  
23 occurred.

24 I submit, respectfully, that for  
25 three or four thousand dollars you could have many  
26 movages in the Harbour of Quebec and this one instance  
27 that cost such a high amount of money was another  
28 example of the intransigence.  
29  
30





/rps1

In October, 1960, the Pilotage

Authority finally settled the conflict which had taken place during the year, and certain decisions had been made regarding the revision or review of the tariff and so forth.

In the following winter, in January, the Pilotage Authority convened the pilots -- at the Ottawa meetings which had taken place previously, and what were they supposed to find? Not satisfied with the settlement that had been reached before, they decided to go on strike in their own way.

I quote on page 68:

" -- it was explained why it had refused to attend the January meeting with the pilots as this could only have lent dignity to a completely hopeless and pitiful situation." I refer to Volume 104, pages 13,003 and 13,009.

Another example of intransigence on the part of Shipowners in negotiations during all these years, and I would refer the Commission to Exhibits that have been filed by the pilots in different districts. Those meetings were being completed on an annual basis by the Pilotage Authority.

You will find in Volume 2 of Exhibit 726 and also in the exhibits that have been filed, a series of briefs, series of documents prepared by the pilots, giving a list of requests, giving proposals, submitting analyses made by pilots -- a whole series of documents to that effect.





1                   During that period of time the attitude  
2 of the Shipping Federation in particular and other  
3 Shipowners' Associations was simply an attitude of  
4 a passive approach, a negative approach, which  
5 consisted of saying, "No." I don't think we will  
6 find a single joint meeting of Shipowners, Pilotage  
7 Authority and pilots to which Shipowners were working  
8 from accurate and precise and complete proposals  
9 or suggestions. In particular, never did the Ship-  
10 owners resort to services of experts in order to advise  
11 them or to discuss questions regarding pilotage.

12                   Naturally all the people attending  
13 these meetings thought they were experts, and some  
14 of them had marine experience. Marine experience going  
15 back to 10 or 15 or 20 years on ocean-going vessels  
16 is not necessarily helpful in settling concrete and  
17 difficult problems in the operation of pilotage in  
18 different St. Lawrence districts. But insofar as  
19 I am aware, the Shipping Federation and owners'  
20 associations never indicated they lacked for finances  
21 in order to finance or pay for the services of such  
22 experts such as economists or other experts, and it  
23 is quite astonishing to find on page 4 of the booklet  
24 filed in Volume 2 of Exhibit E-726, at page 138, this  
25 statement on page 5:

26                   "These pilots are organized into  
27 Associations and Corporations with  
28 competent legal counsel and expert  
29 economic consultants."

30                   No doubt my learned colleague here is









1 competent legal counsel. He is recognized as such,  
2 but what does this have to do with the purpose of  
3 writing that in that booklet? What keeps these  
4 owners from doing the same thing or adopting the  
5 same procedure?

6 On the other hand this attitude was  
7 also present, and here I refer you to evidence given  
8 by Captain Matheson in which he stated that during  
9 the first meeting with Mr. Balcer, his attitude was  
10 of saying: "Why have all these people coming from  
11 outside? Let's settle our own problems. Let's reach  
12 an understanding directly," but I think that once  
13 more this attitude is obsolete and does not help  
14 settle all these pilotage problems.

15 On the other hand, in the field of  
16 operations or rates, the Shipowners always have  
17 adopted on the St. Lawrence in the recent years, an  
18 extremely categorical negative attitude, and, on the  
19 other hand, during the same years, the Shipowners  
20 do not seem to have adopted such a categorical attitude  
21 towards requests of American pilots on the Great Lakes  
22 or international pilotage districts of the Great Lakes.

23 Thus, on June 18th, 1964, I asked  
24 the question of Mr. Colley, in relation to the  
25 amendments of tariffs and rates on the Great Lakes.

26 Page No. 17570, Volume 137:

27 "Q. By the way, on the point as to the  
28 fact that you had no trouble with the  
29 American pilots or your relations were  
30 pretty good, have you counted the number





1 "of tariff increases in the Great  
2 Lakes during the last three years?

3 It would be 1962 and 1963 because 1961  
4 was the first tariff?

5 "A. Yes. There were increases, I  
6 believe, in October, 1962 and in August  
7 of 1963.

8 "Q. And can you remember what percent-  
9 age increase these represented?

10 "A. No. I would have to look that  
11 up to give you a precise answer.

12 "Q. Is it a fact that in the increases  
13 in August, 1963, there was an increase  
14 in August, 1963 in District No. 2?

15 "A. Yes.

16 "Q. And it was in the range of  
17 30 to 40 percent?

18 "A. It was fairly substantial increase.  
19 Whether that is the correct percentage  
20 I don't know.

21 "Q. I understand that this increase was  
22 obtained without having to resort to  
23 any strong action on the part of the  
24 pilots or threats of strong action?  
25 It was established by the decision  
26 of the authorities?

27 "A. That is right. They didn't strike,  
28 if that is what you mean. They didn't  
29 even threaten to strike."

30 Yet I respectfully submit that if a





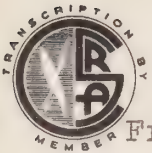
1 similar attitude had been adopted towards the  
2 request of the pilots and not towards requests of  
3 30 or 40%, three or four per cent, we would have  
4 avoided a great deal of trouble in the field of  
5 operations.

6 Finally, we go on in this general  
7 attitude of Shipowners towards the pilots and their  
8 organizations. I would like to draw the attention  
9 to a point which is the following: one should not  
10 be allowed to believe, upon reading Exhibit 726  
11 that the Shipowners were poor, weak people who  
12 finally had their backs against the wall, and also  
13 had a revolver pointed at them by the St. Lawrence  
14 Pilots, but on the contrary, the development of  
15 corporations of pilots and the Federation of Pilots  
16 are developments of pilots made by pilots in  
17 order to truly succeed in maintaining themselves  
18 facing the Shipowners and associations on a good  
19 footing.

20 In fact, if the Shipowners had the high  
21 hand they could be ruthless. This was shown up in the  
22 case of sailing masters on the Great Lakes. While  
23 many offers, many agreements were made, the Shipping  
24 Federation, seeing that it had the high hand at the  
25 time, did not want to compromise or concede any  
26 point, and seeing that, it was only normal for the  
27 pilots to reach the conclusion that the next stage  
28 would be going downstream on the St. Lawrence and  
29 that the next victims would probably be the St.  
30 Lawrence pilots.







1 I think that this would not be a case  
2 of imagination. This would only be a reasonable  
3 deduction from the facts which took place in 1958 on the  
4 Great Lakes.

5 Your lordship, I am supposed to start  
6 on another problem altogether.

7 THE CHAIRMAN: So we are going to  
8 have a short recess of ten minutes.

9  
10 --- A short recess.

11  
12 MR. LALONDE: Having examined the  
13 attitude of the Shipowners as being one of the factors  
14 in the difficulty that arose in the pilotage  
15 system, I would like to examine a third factor which  
16 is the Pilotage Authority or the Department of  
17 Transport. In particular, what I have called inefficiency  
18 in the pilotage administration. This is the third  
19 factor.

20 In the case of the Pilotage Authority,  
21 the D.O.T., there are nine points which I should like  
22 to underscore: the first point, in my view, is the  
23 problem at once legal and administrative, which has  
24 probably been at the source of the greatest number  
25 of misunderstandings between interested parties and  
26 pilotage cases, and I mean the confusion in the functions,  
27 in the duties, in the minds of officials, as  
28 representatives of the Pilotage Authority and  
29 officials of the Department of Transport.

30 I need not here, nor do I intend to





1 refer at length to the evidence that has been sub-  
2 mitted, and in particular to the hearings that took  
3 place in Ottawa during the last days of the public  
4 hearings of this Commission. I believe that any  
5 person who makes a careful study of the transcript  
6 of these sittings will very quickly come to the  
7 conclusion that during the course of all these  
8 years, particularly the last ten years, the duties  
9 of the Pilotage Authority, the functions relating  
10 to the Department of Transport and to the officials  
11 as agents for the Department of Transport, have never  
12 been very clearly laid out. They have been differ-  
13 ently interpreted by different officials.

14 They were thought -- they were  
15 classified, as was stated by Captain Slocombe before  
16 the legal counsel of this Commission, they were  
17 treated as legal niceties, and more or less insign-  
18 ificant, and what resulted from all this was that  
19 legal niceties have involvements in practice, and  
20 these implications do great harm along the line in  
21 the administration of pilotage, amongst the pilots  
22 and among Shipowners as well, and the absence of  
23 delineation between the functions in the  
24 Department of Transport was a most important factor  
25 in the difficulties which arose.

26 In raising these nine points, I wish  
27 to draw to your attention that I should not like,  
28 once more, to question the devotion or the good faith  
29 of the persons involved. Let it be said it is  
30 disagreeable to say that they must be stated before this





1 Commission. This Commission was created to study  
2 the administration of pilotage, and it is most  
3 important at this stage that we should call a spade  
4 a spade. Therefore, the first point, confusion of  
5 functions, confusion in duties.

6 As a result of this, the second aspect,  
7 that is the illegal activities on the part of the  
8 Authorities themselves and of the officials because  
9 of this lack of distinction between the different  
10 functions. I shall quickly give a few examples:  
11 take the case of the setting up of this regional  
12 superintendent. The regional superintendent for  
13 pilots on the St. Lawrence. The Marine Shipping Act  
14 does not provide for this institution, nor does it  
15 provide powers for it. What we find is that we come  
16 to a hybrid creation which is partly a civil servant  
17 within the D.O.T. and partly an agent for the  
18 Pilotage Authorities mentioned and provided for under  
19 instructions from the Department and not found in the  
20 rules and regulations.

21 I refer, further, to the practices in  
22 maritime inquiries, and I leave my colleague, Mr.  
23 Langlois, to elaborate further on that topic, that  
24 once again the evidence presented to this Commission has,  
25 on many occasions, led us to say, "Well, you know, it  
26 is another legal nicety," and it still remains what  
27 we were getting was a situation where the rights of  
28 the parties were not clearly delineated and where,  
29 from time to time, it was felt that the Pilotage  
30 Authority or D.O.T. were taking a risk for good reasons,







1 no doubt, in order to try to wipe out an abuse or  
2 to try to protect a pilot. But the rights of the  
3 Pilotage Authority were poorly defined, or not defined  
4 at all.

5 On how many occasions was it found  
6 that the Pilotage Authority took a decision hoping  
7 it would not be contested -- to such a point that  
8 it would not be contested, and then the question was  
9 dropped. In my view, the points have remained extremely  
10 obscure, unexpained and inexplicable in a certain  
11 manner. For instance, it has been quite impossible  
12 for me, and I think it has been impossible for the  
13 Commission to find in The Canada Shipping Act, any  
14 provision stating that the Department of Transport  
15 is the Pilotage Authority, and yet The Canada Shipping  
16 Act states, under Section 328:

17 "The pilotage authority of any district  
18 other than the pilotage district of  
19 Quebec, may, with the sanction of the  
20 Governor-in-Council, appoint a  
21 secretary and treasurer," et cetera.

22 And Section 325:

23 "The Governor-in-Council may constitute  
24 pilotage authorities for any pilotage  
25 district, other than the districts of  
26 Quebec and Montreal, created in any  
27 place and such pilotage authorities  
28 shall consist of not less than three  
29 or more than five persons."

30 If the Governor-in-Council can set up pilotage authorities





1 elsewhere than in the Districts of Montreal and  
2 Quebec, we must conclude therefrom that the Pilotage  
3 Authority cannot -- the Governor-in-Council cannot  
4 create pilotage authorities for the Districts of  
5 Montreal and Quebec.

6 THE CHAIRMAN: The Pilotage Authority  
7 for Quebec and Montreal -- Section 327 speaks of the  
8 Minister.

9 MR. LALONDE: For Quebec and Montreal,  
10 and insofar as the imposition of the obligatory  
11 payment of pilotage dues in the Montreal and Quebec  
12 Districts, and furthermore I know those two very  
13 well. The situation is extremely doubtful. Very  
14 much open to question. Fortunately, the Shipowners  
15 probably shall prove themselves to be men of good-  
16 will, and did not want to raise a battle over the  
17 issue, and continued previous practices, but it is  
18 clear that the Act must be made much more explicit.  
19 It must be clarified.

20 The third remark I have to make by  
21 way of reproach with regard to the Pilotage Authority  
22 is the fact there is no definition of policies or  
23 definition of policies under momentary pressures.  
24 For instance, take the case of apprenticeships.  
25 This is a most important question. How are the  
26 pilots going to be recruited? Besides the question  
27 of recruitment, how are we going to renew the corps  
28 of pilots? How are we going to make sure about the  
29 remuneration?  
30





1 On the St. Lawrence today, the  
2 remuneration of apprentices is purely a voluntary  
3 contribution by shipowners. All these years, through  
4 these decades when we have had apprentices, the  
5 Pilotage Authority doesn't seem to have succeeded  
6 in deciding what would be the method of financing --  
7 what the policy of financing -- remuneration --  
8 would be reasonable for the apprentices. In the same  
9 way, in exception from compulsory payment of pilotage  
10 dues, it was suggested by the Marine Association who  
11 stated that they wanted more exemptions -- our  
12 argument at the time of the meeting was that the  
13 Association suggested that there be exemptions, and  
14 the question was again brought up. The debate was  
15 re-opened.

16 And what does that mean? It means  
17 that the work by the pilots' associations in regard  
18 to representations, briefs and so on -- it was  
19 felt there was no definite policy; no firm policy;  
20 no consistent policy.

21 I might say the same thing about the  
22 means of remunerating pilots. The pilots over the  
23 last decade have been constantly in a position of  
24 insecurity. For instance, we have heard a great deal  
25 of talk over the last few years about the concept  
26 of the target income. This was coming up and being  
27 dropped -- it was being brought up and was being  
28 dropped -- and we had this proposal finally bringing  
29 the work stoppage of 1962, with a view to cutting  
30 down administrative costs from pilotage dues in the







1 Montreal and Quebec Pilotage Districts and Saint  
2 John Pilotage District.

3 A letter was sent to the pilotage  
4 districts in Canada, and to most of the districts  
5 it was said: "Here is a proposal and we are  
6 asking what you think about it," and in the exhibit  
7 with regard to the Halifax District -- "We do not  
8 think that for this year this project would be appl-  
9 ied to you, because your remuneration levels are  
10 reasonable." So, in Quebec a proposal of 4-1/2%  
11 was made; in Saint John, 25% was made. In the  
12 case of the pilots in British Columbia, they were  
13 sent a letter and it stated in the letter, Exhibit  
14 1157 -- and I am referring to the proposal of the  
15 Treasury Board, with regard to the setting up  
16 of a target income -- that this would be done.





1 In the case of these pilots, nonethe-  
2 less, there were no steps taken to state a definite  
3 percentage; yet you had a proposal sent to all pilotage  
4 districts. Some were told: "This does not apply  
5 to your District for this year." Others were told:  
6 "We are going to set up a target income." Others  
7 were told: "We want to review the revenue we are  
8 aiming at in your District," but no percentage was  
9 set; and in other districts percentages were set.  
10 So, it is inevitable that policies like this one  
11 create insecurity -- a state of mind of insecurity  
12 -- amongst all pilots, and particularly in the Quebec  
13 and Saint John Districts.

14 This insecurity of pilots about  
15 their remuneration also had an effect on their  
16 status as professional men. Once again, there  
17 was noted here a lack of a definite policy by the  
18 Pilotage Authority. For instance, many times when  
19 this Commission has been sitting, there have been  
20 pressures -- representations -- made among the  
21 Saint John pilots and the St. John's, Newfoundland,  
22 pilots, and the Halifax pilots, to attempt to induce  
23 these pilots to become Federal Government employees  
24 at the prevailing rate.

25 If we refer to the case of the Kingston  
26 pilots and the Cornwall pilots -- if we look at  
27 what was done in 1958 to the Kingston pilots -- an  
28 offer was made in 1960 that was rejected. Finally,  
29 the pilots never knew when they would come back and  
30 re-open with the Department this question; they never





1 knew what pressures would be exercised upon them.

2           The absence of any policy was equally  
3 evident in matters as simple as the basis of dues.  
4 In the exhibits and in the Orders-in-Council, you  
5 will see that in the Cornwall District and the  
6 St. Lawrence-Kingston District to Ottawa, about  
7 1960 -- I don't have the exact date, but it would be  
8 about that -- there was a tariff based on a variable  
9 rate, based on tonnage and draught, and you also  
10 had a fixed rate the next year. The next year  
11 there was a variable tariff, based on tonnage and  
12 draught, and in 1961 we came back, once again, to  
13 a fixed rate.

14           Here, again, what policy was  
15 determining these fluctuations? It is impossible to  
16 know, impossible to establish; there is no clear  
17 line of policy.

18           The fourth problem is that of excessive  
19 centralization of decisions in Ottawa. I think the  
20 Commission has heard a great deal about this through-  
21 out Canada. I don't have to look too far back into  
22 the evidence, or the transcript, to prove this. Let  
23 us refer the Commission to the evidence of Captain  
24 Gendron, a former employee of the Department of  
25 Transport on pilotage matters, who was Regional  
26 Superintendent of the St. Lawrence for a number of  
27 years, and to that of Captain Catinus, who is still  
28 an employee of the Department, and was himself  
29 Regional Superintendent, and Captain (?),  
30 who was Superintendent at Quebec -- all these people







1 came to provide evidence in regard to this question,  
2 that is, whether there shouldn't be greater central-  
3 ization, and they said: "Yes, there should be  
4 greater decentralization." I refer you to Volume 61 --  
5 Volume 79 -- of the evidence.

6 Sometimes an attempt was made to  
7 reproach the pilots for this centralization, and they  
8 were told that centralization arose because, "You  
9 went to work in . . . (inaudible) . . . so many times;  
10 you shouldn't have done that." Well, I would like  
11 to quote in reply a very simple case of . . . (inaudible)  
12 . . . who testified before this Commission. He was  
13 asked if he had the the same observations as the  
14 Quebec pilots in this manner, and he said "Yes." He  
15 said that the Quebec pilots objected to the establish-  
16 ment of this, and his opinion was asked and he said  
17 that in his opinion the lighthouse was not useful,  
18 and he submitted this to Ottawa. He had made  
19 no representations to the Department of Transport  
20 and what happened was that the lighthouse was built,  
21 despite the fact that the vessels were being piloted,  
22 and still, today, they maintain that this lighthouse  
23 constitutes more of a peril to navigation than an  
D2 24 aid to navigation, and this, despite the fact that  
25 Captain Gendron has the same idea on the subject.

26 Another of the problems which further  
27 encouraged centralization was the domination at  
28 local level in Quebec and in Montreal of persons  
29 who had no experience whatsoever in the maritime  
30 field. I refer more particularly to Volume 79A, page





1 9,755 and onwards where there is evidence that the  
2 domination of persons who were not simply competent  
3 to tackle this task in these districts could bring  
4 about this centralization of decisions in Ottawa.

5 The fifth factor I will entitle, in  
6 order to be polite, the ~~inadaptation~~ of the personnel  
7 in the field of pilotage. At the present time in the  
8 Pilotage Division in Ottawa, you have only two per-  
9 sons who have experience in the field of local admin-  
10 istration of pilotage. One is an inferior official  
11 within the Division, Captain Seeley, and the other  
12 one is -- well, it is doubtful that he is even part  
13 and parcel of the Pilotage Division -- this is Captain  
14 Catinus who is an investigator when there is some  
15 maritime casualty. The result is that none of the  
16 superior officers in Ottawa in the field of pilotage  
17 have had genuine local experience in the field of  
18 pilotage administration and, in the field of appraisal  
19 of the pilotage service. It is something which is  
20 of a great deal of importance, to my own mind, that  
21 no personnel of the Department, in the administration  
22 of pilotage, has any experience whatsoever as a  
23 pilot in a local pilotage district in Canada. I  
24 think that this is a serious deficiency, which does  
25 not date back to yesterday, because throughout the  
26 whole history of the Department the same phenomenon  
27 exists.

28 Another factor, which is not related  
29 to experience or competence, as such, but which  
30 cannot but have a consequence is the fact that within





1 the Division for pilotage within the Department  
2 of Transport there is no French-speaking person,  
3 while the pilots in Canada are almost up to two-  
4 thirds -- 60% -- or, at least, 50% of them -- are  
5 French-speaking. There was Captain Gendron who  
6 succeeded in surviving for about a year within the  
7 atmosphere existing in Ottawa, and Captain Traveau  
8 looked up all the records going back into the history  
9 of the Department, and he didn't find a single officer  
10 of the Pilotage Division who was or might have been  
11 French-speaking. I cannot but think but perhaps there  
12 might have been a little bit of oil put in the machin-  
13 ery of the Department if there had been someone who  
14 would have been in the position to live near the  
15 pilots of the St. Lawrence, to understand the way  
16 they conceive their problems, or to consider their  
17 way of life. I think that this has been so through-  
18 out the period, and it seems that it is absolutely  
19 impossible to find French-speaking personnel; and,  
20 at any rate, this inadaptation of personnel in the  
21 field of pilotage could but have only one effect on  
22 the administration. It is quite evident that from  
23 thence it resulted in an approach towards the work of  
24 the pilots -- an approach that would soon become a  
25 kind of Civil Service approach of a pilotage system  
26 conceived behind a desk but with no practical exper-  
27 ience on a river or near a harbour.

28 I have to mention here, for example,  
29 the way in which a statistical system was elaborated,  
30 and the system even today still amazes me and astonishes









1 me; and it is impossible for me to find if the system  
2 is justified regarding the specific operation called  
3 pilotage. There are these factors of excessive  
4 centralization of decisions, inadaptation of personnel  
5 and lack of policy, and there is another one still,  
6 which is the autocratic approach adopted within the  
7 administration to pilots, for example, in the case of  
8 the international agreement regarding the Great Lakes.  
9 Under this system, none of the Shipping Federation  
10 pilots could go and sit down and negotiate with the  
11 representatives of the American Government. Although  
12 I understand there were certain subtle and delicate  
13 questions that perhaps one wouldn't want interested  
14 people to know about, nevertheless the American  
15 Government succeeded in establishing a consultative  
16 committee when they had to establish or set up this  
17 international system of pilotage in the Great Lakes.  
18 However, the Pilotage Authority here is not deemed  
19 adapted, or it was not deemed necessary to convene  
20 the interested parties here, or to talk to them about  
21 their problems, or even give them an opportunity to  
22 discuss those problems or give their own viewpoints,  
23 or to sort of air out the whole question.

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1 All this was negotiated, but owing to  
2 the secrecy in Canada as has been mentioned in evid-  
3 ence, in the final analysis the pilots obtained that  
4 information from Washington rather than from Ottawa.

5 I cannot but think that this was a  
6 rather abnormal situation or state of affairs. As  
7 I stated about the relationships of the Pilotage  
8 Authority, now I am not longer talking about the  
9 Pilotage Authority, but rather the relationship of  
10 the D.O.T., or at any rate, some people were changing  
11 hands with the pilots of District No. 2 and District  
12 No. 3 on the Great Lakes.

13 You have heard at your sittings  
14 difficulties arose about the establishment of the  
15 Corporation of professional Great Lakes pilots where  
16 even my right as counsel to act on behalf of the  
17 pilots of that District where I had not obtained,  
18 at once, a written mandate was contested. My rank  
19 was contested, and also difficulties raised by the  
20 Department when the pilots from District No. 2 and  
21 representing all schools of thought gathered together  
22 and came to Ottawa in order to try to settle the  
23 problems with the Pilotage Authority . . . (Inter-  
24 pretation unclear) . . . you must represent not one  
25 but rather two associations, aside from the non-  
26 affiliated people, but of organizations where we had  
27 discussions and practically an ultimatum that meet-  
28 ings should be held during the afternoon.

29 I must say the attitude of the  
30 Department with regard to the relationship between the





1 pilots and the pilots and the Seaway Authority and  
2 the Shipowners, I am referring to, for example,  
3 Exhibit 1,292, which is a document entitled: "Brief  
4 and answers on behalf of the St. Lawrence Seaway  
5 Authority to the Royal Commission on Pilotage.

6 "Q. Has Seaway Authority sought to  
7 have meetings with pilots with respect  
8 to navigation? If not, why not?  
9 Have pilots requested such meetings?

10 "A. We have met with Department of  
11 Transport pilotage officials many  
12 times to discuss problems of mutual  
13 interest, but we have not met with  
14 the pilots as such at their request,  
15 except on one occasion when they wished  
16 to discuss transit procedures.

17 At that time Department of Transport  
18 officials were present to take note  
19 of matters being reviewed and indicated  
20 that pilots should first discuss  
21 subjects with them before meeting  
22 with Seaway personnel. No further  
23 meetings of this nature have been held  
24 or requested, either by the pilots or  
25 the Seaway."

26 We understand that neither the Seaway  
27 Authority nor the pilots have made such requests  
28 subsequent to the answer. In regard to the Great  
29 Lake pilots, they gave evidence to the effect the  
30 Cornwall pilots had had meetings with the representative







1 of the Seaway Authority, but, at the same time, Captain  
2 Matheson, in evidence before this Commission stated  
3 that he was told that it was none of his business to  
4 go into the Port Weller/Sarnia area, in order to meet  
5 with the pilots. If he has anything to do, he has  
6 to say it to the Department, and the Department would  
7 look after its employees.

8 This autocratic attitude is also found  
9 in detailed matters in even cases of, for example,  
10 in changing of aids to navigation: in the case of the  
11 range lights in the Montreal District.

12 You had the recent evidence from Mr.  
13 Mahoney from the D.O.T. in which he stated that the  
14 Department tried to improve the range lights in the  
15 Montreal District, and with the result -- without  
16 any previous consultation with the pilots -- with  
17 the result that the pilots are complaining that the  
18 range lights are no longer as useful as they were  
19 previously, and that gives rise to new problems to  
20 the pilots.

21 This was done without any consultation  
22 whatever with the pilots, and simply upon the  
23 estimation or assertion of personnel on visits to the  
24 Department who work from nine to five, and who  
25 stated that the range lights were very good, were  
26 satisfactory and that they gave better service.

27 However, that autocratic attitude can  
28 also be present in detailed points, and I am referring  
29 here to Exhibit 1718 on the 30th of January, 1963,  
30 a St. Lawrence pilot wrote a very polite letter to the





1 pilots' supervisor, making an observation regarding  
2 new launches for the pilot boats to Les Escoumains and  
3 suggested an improvement. On February 4th, 1963.  
4 Captain Allard said he had transmitted the letter to  
5 Ottawa and on February 23rd, the Captain answered the  
6 following:

7 "Subsequent to your recent letter  
8 regarding the pilot boats to Les  
9 Esccumains, we wish to inform you that  
10 the Pilotage Authority does not envisage  
11 a replacement of this pilot boat by a  
12 larger boat. Moreover, it is surprising  
13 that certain pilots are complaining  
14 regarding the difficulty of operation  
15 of these vessels, as they have nothing  
16 to do but manoeuvring of these vessels  
17 or these pilot boats.

18 It would be interesting to find out  
19 if the letter to Captain Allard corresponds to the  
20 memorandum that he must have received from his  
21 superior officers in Ottawa, if there are similar  
22 assertions in those.

23 On the one hand you have this auto-  
24 cratic approach in certain matters in  
25 the field of pilotage administration,  
26 and, on the other hand, you get a certain  
27 incoherence in the decisions of the  
28 Pilotage Authority.

29 For example, the Pilotage Authority  
30 in April of 1962, the Minister himself





1 signed a document in which he stated that in the  
2 future, statistics for the purposes of calculation  
3 of the manpower of pilots would be calculated accord-  
4 ing to a different basis. What took place? What  
5 happened?

6 Well, nothing happened. They still  
7 went on as previously. Perhaps there were a few  
8 modifications made, or a little different from the  
9 decision taken by the Minister, but it is just as if  
10 the Minister's decision had never existed at all.

11 We have not filed before this Commission  
12 a single exhibit; a single statistical document filed  
13 since April of 1962 showing that the Pilotage  
14 Authority decision was implemented.

15 Let us take the case of the apprentice-  
16 ship system in Cornwall. I do not want to enter  
17 into all the details of that. The Minister had  
18 promised us the establishment of an apprenticeship  
19 system for the beginning of 1963.

20 We could say: "Very well. The pilots  
21 don't want to upset the projects of the Department,"  
22 although they must have added that the pilots were the  
23 first ones to submit the project or suggestion,  
24 but then the pilots were met with the argument that  
25 was put forward: "Well, you know there is a Royal  
26 Commission of Inquiry, and the Royal Commission of  
27 Inquiry would prefer that adoption of the apprentice-  
28 ship system.

29 The same position was stated recently  
30 through a letter of October 23rd, 1964, from the







1 Minister, which has been filed before this Commission  
2 after the sittings and which has a number subsequent  
3 to the numbers of the exhibits given.

4 At any rate in this document the same  
5 position is now stated. We must wait for the submission  
6 of the report of the Royal Commission of Inquiry on  
7 Pilotage.

8 I do not understand that such a  
9 position is valid. If this position is valid, it is  
10 also valid for the proposals made by the pilots of  
11 St. John's, Newfoundland, and the Halifax pilots as  
12 regards their status. I donot see why this argument  
13 should become valid in one case and not valid in the  
14 other case.

15 This lack of coherence in the decisions  
16 between the Minister's officials and the Pilotage  
17 Authority has also been evident in other cases; the  
18 opinions of officials about their senior officials  
19 in regard to certain definite steps taken.

20 For example, Captain Bedard in his  
21 evidence referred to the metting that took place  
22 amongst the pilots and Captains Slocombe and Jones,  
23 at the time of the work stoppage in 1962, and the  
24 pilots expressed the viewpoint -- the opinion --  
25 expressed the position had been taken by a senior  
26 to his two officials within the Department, and the  
27 reply of the officers at that time was to say that  
28 this senior official "didn't know what he was talk-  
29 ing about."

30 I refer further to the famous sum





1 of \$75,000 that was to be integrated into the revised  
2 tariff of the pilots in 1960, and for that, your  
3 Commission should report to Volume 139, page 17,894 and  
4 17,898 and 17,899.

5 This is a point raised by Commissioner  
6 Smith:

7 "COMMISSIONER SMITH: My lord, I wonder  
8 if I could bring up something? It has  
9 to do with the question of the abolish-  
10 ing of the special pilot and the supple-  
11 mentary revenue that was supposed to  
12 be provided in lieu of the \$65,000 a  
13 year that the special pilots earned,  
14 and I understood your evidence to be  
15 that the pilots had agreed to the  
16 \$15,000 in place of the \$65,000 earned.  
17 Am I quoting it correctly?

18 "THE WITNESS: This was part of a  
19 compromise which was part of a larger  
20 compromise, I think.

21 "I think this refers, obviously, to  
22 the understanding reached in October  
23 of 1962.

24 "COMMISSIONER SMITH: In the evidence  
25 taken in Quebec, one of the pilots  
26 stated that the Department had agreed  
27 to supplement the \$65,000. This is  
28 what the evidence says in blunt language.  
29 The witness said the Authority went back  
30 on its word."





1 "THE WITNESS: As I explained, Mr.  
2 Smith, the officer who was talking to the  
3 Pilots' Committee discussing this  
4 matter took it for granted the same  
5 procedure would be followed as had been  
6 followed the previous year in Montreal  
7 and he was not in a position to speak  
8 for the Pilotage Authority. Any  
9 discussions we have with the pilots  
10 are always subject to approval by the  
11 Pilotage Authority and in this case  
12 the impression that he gave them was  
13 not borne out. He had no support for  
14 it later on.

15 "COMMISSIONER SMITH: It is acknowledged  
16 he actually told the pilots that the  
17 \$65,000 revenue would be made up?

18 "THE WITNESS: This was understood in  
19 the discussions, yes. This was his  
20 mistake. It was quite an unintentional  
21 mistake and one that he had no reason  
22 to think would not be carried out."

23 Now, to continue further on, and we  
24 go on to page 17,898 with regard to the same subject,  
25 and a question put by myself:

26 "MR. LALONDE: Now, you said an official  
27 of the Department led the pilots to  
28 understand that the same procedure  
29 would be followed in Quebec as in  
30 Montreal. Who was this official?







French

1 "THE WITNESS: Captain Jones.

2 "MR. LALONDE: You said this was without  
3 authority?

4 "THE WITNESS: This was during the  
5 discussions. He had no reason to think  
6 this would not be done.

7 "MR. LALONDE: I am referring you to  
8 a letter -- this memorandum was produced  
9 as Exhibit 66, and reproduces part of  
10 a letter of Baldwin ---"

11 I presume this is the Deputy Minister.

12 I should be Mr. Baldwin ---

13 " --- of January 25th, 1960 and part of  
14 it reads as follows:"

15 I am going to skip a paragraph.

16 "Here is an important part:

17 "'At the same time the tariff of dues  
18 in the bylaws was adjusted so as to  
19 compensate for the loss of income privately  
20 received by the special pilots. This  
21 new system has worked well and the  
22 Pilotage Authority looks with favour  
23 upon its extension to your District.'

24 "Isn't it a fact that such a letter  
25 would be of a nature to lead Captain  
26 Jones and the pilots to the conclusion  
27 that the same procedure would be followed  
28 as was followed in the Montreal District?"

29 THE WITNESS: Yes, it would, and we  
30 had no reason to think otherwise.





1 "MR. LALONDE: So that, in effect, when  
2 Captain Jones was saying something  
3 similar to the Quebec pilots he might  
4 have been only paraphrasing what had  
5 been written by the Deputy Minister  
6 on January 25th, 1960?

7 "THE WITNESS: It is possible. As I  
8 say, he had no reason to believe it  
9 would be otherwise, but there had been  
10 no objection from the Shipping Feder-  
11 ation up to that point.

12 "MR. LALONDE: I see.

13 "THE CHAIRMAN: And the Minister is  
14 the authority.

15 "MR. LALONDE: I understand he was  
16 at the time. Maybe Captain Jones  
17 didn't speak with any authority, but  
18 what he said was not completely out  
19 of context at that time?"

20 Like in situations like this, if you  
21 have meetings with the official representative of the  
22 Pilotage Authority, you have a letter from the Deputy  
23 Minister and all of a sudden the policy is completely  
24 changed and we say: "Now, look here: it is the  
25 Pilotage Authority that is backing out of all of this.  
26 You know after the discussions they say we have no  
27 authority. We have no authority, and if the Shipping  
28 Federation raises any objection, well, things may  
29 change." And the result is that, in cases like this,  
30 one may go on decisions which are completely lacking in





1 continuity. It is impossible to pursue negotiations  
2 in any continuous way that will lead us anywhere.

3 The fact that the Minister is detached  
4 from the truth; that the Pilotage Authority is detached  
5 from the administration of pilotage can only lead  
6 to this complete lack of continuity of decisions  
7 and lack within the Department of a fearing to engage  
8 the Pilotage Authority in true decisions.

9 Finally, if I may use the expression  
10 which is English: negotiations between the pilots and  
11 the Pilotage Authority for all practical ends and  
12 purposes became shadow-boxing.

13 I have two more points to raise and,  
14 as I said, I will try to go through these quickly:  
15 the eighth point -- and this is similar to the one  
16 I mentioned a moment ago, with regard to Shipowners --  
17 there is, in certain cases, a lack of trust in  
18 dealing with pilots' associations.







1/rps

1 Do you remember, this morning, I  
2 mentioned a letter -- this afternoon -- the letter  
3 written by Captain Matheson, with regard to the pilot-  
4 age in the Montreal District, in which he said to  
5 Mr. Cumyn: "Please intervene to prevent the setting  
6 up of this kind of corporation which is going to  
7 bring us all kinds of trouble." And what happened?  
8 I don't know whether there is any relationship between  
9 the two letters, or between the letter and the event,  
10 but in any case there is this very odd pilgrimage  
11 between the Deputy Minister, accompanied by the  
12 Director of Marine Section and Mr. Cumyn, and legal  
13 counsel to the Montreal District pilots. A strange  
14 meeting, during which it was very difficult to get  
15 any facts brought clearly to light.

16 The one fact that came to light was  
17 that these people were going to visit the legal counsel  
18 and advise him to please encourage his clients to  
19 not go forward with their intention, to say the  
20 least of it, and we know what the result was.

21 Now, the case of the Kingston pilots:  
22 when an offer was made to them to adopt the status  
23 of government prevailing-rate employees in 1961 --  
24 early in 1961 -- when the regulations provide that  
25 the Pilotage Authority recognized the pilots'  
26 committee as the sole representative of the pilots,  
27 it was thought that they could not accept the opinions  
28 expressed by these representatives on the pilots'  
29 committee, and at the Queen's expense, were brought  
30 to Ottawa, all the pilots of the District; they were





1 convened by telegram sent to each one by the  
2 Deputy Minister, and the Minister himself, the  
3 Deputy Minister and I don't know how many officials  
4 met the pilots at Kingston, and they met them to  
5 encourage them to accept the offer.

6 I spoke a minute ago of the worries  
7 occasioned to the Corporation of Great Lakes Pilots,  
8 and I do not intend to go back over this, but I refer  
9 the Commission to Volume 115, and in particular, pages  
10 14,484 to 14,888.

11 Finally, as to my ninth point: I  
12 would like to draw the Commission's attention to  
13 a certain number of cases that seem to me, and I  
14 can find no other expression to describe them, but  
15 as cases of administrative incompetence. Before  
16 I develop this point further, your lordship, I think  
17 we might ask for a recess for a few minutes.

18 THE CHAIRMAN: We will recess for  
19 ten minutes.

20  
21 --- A short recess.

22  
23 MR. LALONDE: Your lordship, gentlemen:  
24 I had reached the last point regarding the  
25 Pilotage Authority, which is an important point and  
26 a difficult one, which I qualified as being administrative  
27 incompetence, but I would like to note that this  
28 expression of administrative incompetence also referred  
29 to non-administrative as well as incompetence. In  
30 the first case, it might be found in British Columbia.





1 It does not directly and exclusively involve the  
2 D.O.T., but it seems that when many departments become  
3 involved in problems related to pilotage, the already  
4 difficult situation then existing within the Depart-  
5 ment seems to be multiplied tenfold.

6 I am referring, for example, to the  
7 famous New Westminster Bridge. I did not have the  
8 opportunity of hearing the evidence. I only read the  
9 evidence that was given in British Columbia about that  
10 matter, but I must tell you I was completely flabber-  
11 gasted to see the evidence that was led before the  
12 hearing by government representatives, and to conceive  
13 or to think of such an important factor for the City  
14 of New Westminster and the pilots, where it seems this  
15 whole matter seems to have evaporated into government  
16 ministerial policy, and a decision has been made not  
17 to proceed with the qualification of this New Westminster  
18 Bridge, on the basis of telephone conversations or  
19 a cocktail hour -- I don't recall.

20 THE CHAIRMAN: This had to do with  
21 Federal administration in general, and not with the  
22 D.O.T. or the Minister as Authority, because this is  
23 a district which does not fall within the province  
24 of the Minister of Transport.

25 MR. LALONDE: I know, your lordship.  
26 He is a representative of the Department of Transport  
27 on this Committee, and I think that this is important  
28 to note it, and I do not note it only for the pleasure  
29 of doing so, because I am thinking here of further  
30 consequences when your Commission will examine the









1 recommendations on structural reform in the field of  
2 pilotage.

3           The particular case of the New Westminster  
4 Bridge -- we can go eastward and take the case of the  
5 pilotage station of Les Escoumains. Once more, this  
6 is not solely within the competence of the D.O.T.  
7 This is also the Public Works Department, and there  
8 was also the period of government austerity which  
9 existed for a few months. But it seems that for  
10 certain reasons, this period of austerity has last-  
11 ed for a few years, and the delay in the building of  
12 this Les Escoumains station had a great deal of impact on the  
13 administration and welfare of the pilots in that  
14 District.

15           The same thing applies to a very much  
16 more simple case: the establishment of a shelter for  
17 pilots at the St. Lambert Lock, and finally the  
18 Federation of St. Lawrence Pilots had to use all of  
19 its arguments so that a shelter would be built. And  
20 I am informed this shelter was to be finished in  
21 December, and it is more or less as it was; as it  
22 stood.

23           I would qualify as administrative  
24 incompetence the way in which the statistics were  
25 compiled; statistics regarding earnings and the  
26 working conditions of pilots. Unless it is sheer  
27 genius. But I will admit that nowhere in the world;  
28 nowhere in Europe; nowhere in the United States have  
29 I found any place where the income and the hours of  
30 work of pilots are computed the way in which they are





1 computed in Canada, and more particularly, for the  
2 St. Lawrence River and the Great Lakes.

3 This particular problem has given rise  
4 to useless difficulties and artificial difficulties  
5 in the relationships between the pilots and shipowners,  
6 and the Pilotage Authority for many years. I under-  
7 stand the way in which these statistics were compiled,  
8 the shipowners and the Shipping Federation collectively  
9 found that it was a good system for comparing  
10 statistics regarding pilots, and I refer, in particular,  
11 to Volume 102, pages 12,722 to 12,926; and whether  
12 an effort would have been made in order to find a  
13 system of computing which would have shown an income  
14 as high and a workload as low as possible for pilots,  
15 I don't think that a method over the one that has  
16 been invented on that occasion has been found.

17 And the fact is we had evidence  
18 before this Commission of, you know, the Pilotage  
19 Authority say whenever we speak about 2.3 hours of  
20 work a day for a pilot, this includes only the time  
21 that he is on the bridge, and not time that he is  
22 on the walls and working the vessels, and so forth,  
23 and it is very easy to come and say that and give  
24 evidence to that effect. But when this information  
25 is transmitted to the public as information, and  
26 moreover used for associations for the purposes of  
27 negotiations with shipowners, it becomes quite  
28 evident that the pilots are put in an extremely  
29 disadvantageous position. They are put in the position  
30 whereby they have to give a whole lot of explanations,





1 and all these comparisons I am making on the workload  
2 of pilots in the way in which they are using the system  
3 of the D.O.T. would be the same as computing the work-  
4 load of a judge by the hours he is sitting on the  
5 Bench, or the number of hours that the Minister puts  
6 in the House of Commons.

7 In recent years, the Minister would have  
8 been . . . (inaudible) . . .

9 We will say, well, you know statistics.  
10 You can leave it or take it, and you can make  
11 statistics for every possible purpose, but I believe  
12 in statistics. I believe in mathematics, and I think  
13 that there will be a possibility of transmitting  
14 valid information through the use of such techniques.  
15 It seems to me, if we are told: well, you know, it is  
16 not important or it is nonsensical, as Captain Slocombe  
17 mentioned in his evidence towards the end -- and I  
18 can't find the reference -- I don't think we should  
19 publish or prepare or use statistics if we think  
20 that they are nonsensical, or they have no meaning.

21 At the bottom of it all, what seems  
22 to have been forgotten is the value and the importance  
23 of the service record, I am sure. To say what  
24 great importance is given these figures regarding  
25 the pilots' establishment, and the theoretical work-  
26 load, as compared to the number of turns and number  
27 of trips made by pilots. It is in this way it is  
28 computed practically anywhere else, and it is a simple  
29 way; a simple system understood by all, and which  
30 allows reasonable and valid discussion.









1 It is an approximate system, but we  
2 know that it is more significant a system than a  
3 system whereby figures are used giving results  
4 that pilots in a district, in Saint John, seem to be  
5 working an hour a day; while in other districts  
6 they seem to be working eight to nine hours a day;  
7 while we know very well -- we know full well -- that  
8 harbour pilots, for example, will have to pass far  
9 more time changing vessels, waiting for a vessel, than  
10 a pilot in a district such as Quebec, where the  
11 District is a considerably lengthy one to go through  
12 and we pass a long period of time on board the  
13 vessels.

14 These statistics seem to me even more  
15 useless and misleading; they do not seem even to be  
16 consistent. I would refer the Commission to Exhibits  
17 526, 527, 587, 869, 1,297, 1,298, 1,299, 1,300, 1,304  
18 to 1,307.

19 As you know, that is the way the I.B.M.  
20 machines work in the D.O.T. It is not my intention  
21 to dwell any longer on these documents. I lost half  
22 of my night's sleep on them.

23 I found it, in many cases, practically  
24 impossible to make these figures agree and I would  
25 like to refer the Commission to finish this whole  
26 matter to Volume 150, on page 19,867; Captain Jones  
27 being the witness. I drew to his attention the two  
28 cases where the figures he was giving for the same  
29 thing did not agree, and I asked him the following  
30 question:





1 "Can you explain the difference?

2 "CAPTAIN JONES: No, not without  
3 looking them up.

4 "MR. LALONDE: Then I will give you  
5 fifteen days to think about it!"

6 The Chairman then decided to adjourn.

7 This was on September 30th. I did not have the time  
8 to trace -- to find out in what volume, and on what  
9 date I asked him this question again, but I remember  
10 very well having asked him that question a fortnight  
11 later; or during the following sittings, asking him  
12 if he was able to explain the difference, and the  
13 answer was "no."

14 I think that on this whole matter of  
15 statistics, the best possible thing that should be  
16 done in the way of recommendation would be to sell  
17 the I.B.M. device, or send it back, ~~because I think these~~  
18 I.B.M.'s are rented and not sold; or that it could  
19 be used to other purposes: to calculate the number  
20 of coffees they could buy the secretaries during the  
21 day at the D.O.T.; or the number of pencils used,  
22 and I think that these purposes would be more useful  
23 than the ones it was used for up to now.

24 Finally, I have a case -- another case  
25 of administrative incompetence is the case of the  
26 pilots in the Quebec District to which Captain Rousseau  
27 referred, regarding which a great deal of correspond-  
28 ence was filed before this Commission. You will  
29 recall that while the Pilotage Authority was blaming the  
30 pilots for unexplained absences as it said, of pilots





1 that it had, itself, suspended -- or pilots about  
2 which the Pilotage Authority held medical certificates,  
3 because these pilots had been victims of serious  
4 accident, or were seriously ill.

5 I mention, also, the case, for example  
6 the fact that even up to now this problem has not  
7 been settled when numerous pressures and representations  
8 were made, in order to obtain approval in Parliament  
9 of bilingual radio operators in Quebec, which seems  
10 to be quite a fundamental requirement, as a service  
11 to be given to all coastal vessels and all ocean-  
12 going vessels navigating on the St. Lawrence River.

13 I do not know if we qualified this  
14 as being administrative incompetence. Perhaps it  
15 is the physical incapacity of this system, or inability of  
16 this system in reference to this tolerance or, rather,  
17 the incapacity of preventing illegal pilotage for  
18 many years above Montreal either on the part of  
19 American pilots, or persons acting as pilots on board  
20 American vessels or Canadian vessels.

21  
22  
23  
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1 Actually, this was illegal pilotage. There is no  
2 doubt that, when we have discussed this matter for  
3 quite a long while, that the situation which has  
4 been brought before this Commission seems to be quite  
5 blatant; but, on the other hand, in the Department  
6 of Transport for many years, they undertook the  
7 necessary steps in order to control this.

8 May I also talk about incompetence  
9 when we refer to the absence of the interests of the  
10 Pilotage Authority, and organized pilotage in the  
11 Great Lakes? Perhaps not. Just the same, it is  
12 quite remarkable that it was the Shipping Federation  
13 that established, by itself, a pilotage system on  
14 the Great Lakes, and that they finally proffered  
15 it to the D.O.T. so that the D.O.T. finally decided  
16 to look after the whole thing.

17 I could go on and on, but I think  
18 those few points I have raised as examples -- it  
19 might be possible to raise others -- should be  
20 sufficient to indicate that in the field of pilotage  
21 administration there is something wrong.

22 Facing this situation, I have tried  
23 to demonstrate before the Commission today, the  
24 situation involving the pilots themselves, between  
25 the period 1940 and 1960 and 1962, and the position  
26 taken by the shipowners during the same period of  
27 time -- that you have this deficiency in the admin-  
28 stration in the field of pilotage, and something  
29 which should astonish everyone here is not so much  
30 the difficulties themselves, but, rather the fact





1 that pilotage has succeeded in working so well,  
2 despite everything else over this period of time.  
3 But it seems to me quite evident that the present  
4 state of affairs could not be tolerated indefinitely,  
5 and it was this which brought about the establish-  
6 ment of this Royal Commission of Inquiry, and this  
7 is why this Commission has to turn its eye towards  
8 the future, in order to find possible modification  
9 in this structure; and, having studied the past,  
10 so to speak -- and, as I mentioned before, we did  
11 not want in our brief, to detail too much of the  
12 past... I would like now that this Commission should  
13 look towards the future, and study what types of  
14 modifications there should be in pilotage on the  
15 Great Lakes, and what would be the best possible, in  
16 order to get the best possible pilotage service in  
17 this country and to the shipowners, as well.

18 Here again, it would be possible to  
19 examine it problem by problem, and find an ad hoc  
20 solution to each of these problems -- temporary  
21 solutions that probably would continue for several  
22 years, but which would have to be changed, and there  
23 would be important changes within a short space of  
24 time, but I think it is most important that this  
25 Commission should go beyond immediate solutions,  
26 and should make recommendations that will constitute  
27 true reforms in the pilotage field; and these  
28 recommendations cannot be undertaken, it seems to  
29 me, validly, unless this Commission does adopt  
30 a certain number of guiding principles, if it does







1 base its work on a certain number of hypotheses; a  
2 certain number of viewpoints that are policies at  
3 large, I might say.

4 I should like to enumerate what I  
5 consider should constitute the guiding principles  
6 for the shipowners, within these principles, once  
7 they are accepted: it is possible to envisage modifi-  
8 cations which may vary from one case to another, or  
9 from one interest to another, and I think we will  
10 find that if we reach understanding with respect  
11 to the overriding principles, we will certainly  
12 establish a system which should work quite well.

13 These principles -- these guiding  
14 principles -- and I have enumerated seven of them --  
15 they are, perhaps, not all there are, but they are  
16 those which seem to me the most important and the  
17 most basic to reform of pilotage in Canada.

18 I think the first principle that I  
19 would offer -- and this has reference to the Great  
20 Lakes and the St. Lawrence pilots -- would be not  
21 to create difficulties. I think public opinion would  
22 support them, and this should be approved of  
23 unanimously. Indeed, the justification of  
24 the pilots resides in two questions: Protection of  
25 public safety and the efficiency with which maritime  
26 traffic is conducted.

27 Frequently there have been questions  
28 put before this Commission in regard to this  
29 principle; that is: should safety be the first  
30 principle; or should efficiency be the first principle?







1 Should the safety factor be taken into consideration?

2 I believe that these two factors cannot be disassoc-  
3 iated, one from the other; and both factors, in my  
4 opinion, if they can be dissociated, must be taken  
5 into consideration in the field of pilotage. Of  
6 course, it is important to note that, depending on  
7 the district, depending on the circumstances, one  
8 of these factors will be the more important. Easily,  
9 we may conceive of a situation where safety requires  
10 pilotage in certain given areas.

11 My view is that, for instance, it is  
12 inconceivable that the maritime traffic in the Harbour  
13 of Montreal should be left completely free -- that is,  
14 that there would be no pilotage -- no obligatory  
15 pilotage, nor no compulsory payment of pilotage dues  
16 in a harbour as busy as this; when it seems to me  
17 that public safety demands that there should be pilot-  
18 age. We can discuss exemption at a given moment,  
19 but the principle of pilotage is certainly one that  
20 is valid for that area.

21 There are other factors where the  
22 question of public safety is of lesser importance:  
23 I think if we examine the case of pilotage on the  
24 Great Lakes or along the coast of British Columbia,  
25 for instance, in certain areas it is the public  
26 efficiency which is going to be the more important  
27 one. I might say, for instance, that in the Gulf  
28 of St. Lawrence, or in the Quebec District, it could  
29 be stated that, over a certain distance, ships may be  
30 carried without pilots; but there is, then, the argu-





1 ment as to the general efficiency in the handling of  
2 traffic, and I think that both factors must be weighed  
3 and evaluated and taken into account; and the fact  
4 of safety and the overriding factor of efficiency  
5 cannot be judged in relation to such and such a ship  
6 at such and such a given moment.

7 For instance, it is very clear -- and  
8 we have evidence to this effect -- that during the  
9 whole of the stoppage in 1962, ships succeeded in  
10 reaching Quebec without pilots, and it seems to me  
11 quite possible than on a fine day in fine weather,  
12 a ship might come up even to Montreal without a  
13 pilot; there is nothing to show that, necessarily,  
14 there would be a serious accident because of that;  
15 but I believe that our public authorities must eval-  
16 uate as to whether, as a principle -- as a general  
17 rule -- does this efficiency of service, does this  
18 public safety, not depend upon their being a pilotage  
19 service available? Is it going to be safeguarded  
20 much better than if there was no pilotage service?

21 The second overriding principle, it  
22 seems to me, in the reform of pilotage is that the  
23 public interest demands that the pilotage profession  
24 be exercised under the surveillance of public authority.  
25 It is my belief that it is a practically universal  
26 experience in this field of pilotage, and if pilot-  
27 age many be justified as just protection of maritime  
28 traffic and public safety, it is normal that the  
29 public authorities should be responsible; that the  
30 public authorities should exercise certain supervision





1 over the pilotage service.

2 Now, there are many remarks that could  
3 be made on this subject once we have set forth these  
4 principles. This doesn't mean that such authorities  
5 should administer pilotage in the detailed and specific  
6 sense of that word. I have spoken, intentionally, of  
7 supervision, and I think that what the public interest  
8 demands is that there be supervision of the pilotage  
9 services, but I don't think the public interest  
10 necessarily requires that public authorities themselves  
11 administer the pilotage services down to the last  
12 detail. I think we must make this distinction very  
13 clear -- this basic distinction -- and if we do not  
14 draw this distinction very clearly, there shall be  
15 great confusion, or, indeed, we may have a service  
16 established that will not even ensure public safety  
17 -- that is, the efficiency of the pilots will certainly  
18 be cut down, and certainly be reduced if there is  
19 public administration; that is to say, if there is  
20 too much red tape.

21 To ensure the proper services of  
22 pilots, I think the criteria of efficiency and  
23 safety must be the overriding principles, and these  
24 two overriding principles require that there shall  
25 be supervision by a public authority, but there is  
26 nothing to suggest that this means that the administ-  
27 ration of the pilots by in the hands of public  
28 authorities.

29 I said I had only two remarks. I  
30 have the second one to make, and it is the following:









1 If the public interest demands that the pilotage  
2 profession be exercised under the supervision of  
3 public authorities, I believe that equity and the  
4 common weal demand that this supervision should be  
5 applicable to all.

6 What I mean is this: If the public  
7 authorities feel the need to define the pilot's  
8 function, there must be a certain obligation upon  
9 the authority in relation to the rights they may  
10 grant to the pilots, and those same public authorities  
11 must not tolerate, within this country, the exist-  
12 ence of persons who are, at the same time pilots,  
13 but pilots who do not have either the obligation  
14 or the rights inherent in the post of a pilot super-  
15 vised by the state. I think if this argument be  
16 carried to the safety of the public in regard to  
17 certain pilots, it should be applied to all those who  
18 exercise the profession of pilotage.

19 In my view there is a third principle  
20 -- a third overriding principle -- to be observed  
21 and noted and it is the following one: the modern  
22 philosophy, in referring to administrative principles.

23 I am speaking now of the public  
24 administration and private administration and the  
25 contemporary philosophy of big, private enterprises  
26 is in favour of decentralization of power wherever  
27 possible, where this does not cause prejudice to  
28 public interest.

29 This means not only -- this is not  
30 in regard to certain political theory or democratic





1 character or a liberal type of political theory in  
2 the vocabulary of political philosophies, but merely  
3 from the point of view of administrative efficiency.

4 It is clear, as I say, not only in  
5 regard to public administration, but in the big  
6 private enterprises, such as Ford, General Motors,  
7 and all these other big companies. We find that  
8 they have to decentralize wherever possible, without  
9 cutting down efficiency. Indeed, the efficiency  
10 is greater where there is decentralization of these  
11 big enterprises.

12 That is more or less what guided the  
13 Glassco Commission, which was charged with studying  
14 the operations of the Canadian Government. This is  
15 the basic position which the Glassco Commission  
16 finally adopted, and I refer your Commission to  
17 chapter 10, volume 2, page 325 of the Glassco Report,  
18 where the Commissioners said as follows, and I quote:

19 "If we cannot prevent the development  
20 of secondary enterprises in practice,  
21 this means that we shall be having  
22 public authorities not fulfilling their  
23 true role. These secondary activities,  
24 peripheral activities, finally absorb  
25 the time and energy of the senior  
26 officials of the Government, or else  
27 these functions are not properly filled  
28 and administration suffers."

29 I think those are very wise words, and  
30 they should be framed in every room of every government





1 department.

2 If we think back for a few moments  
3 about the pilotage operations in Canada in regard  
4 to this statement, we know that this statement is  
5 a very fair statement and a very profound one. I  
6 will repeat the last sentence:

7 These secondary or peripheral activities  
8 finally absorb the time and energy of  
9 senior officials or else these are  
10 either neglected or poorly administered.

11 Perhaps the Commission, at the time  
12 of the luncheon, may meet other persons or pass  
13 Ministers of Transport or Deputy Ministers of Transport  
14 and will reach their own conclusions in that regard.

15 I spoke of government enterprises.  
16 I could speak of private enterprises. I refer your  
17 Commission to certainly one of the greatest theorists  
18 of enterprise in North America at the present time.  
19 I refer to Peter F. Drucker and, in particular, to  
20 his volume entitled "New Society Building. The  
21 Anatomy of the Industrial Order," page 270, and the  
22 following pages where finally he develops what is  
23 called the theory of federalism in the administration  
24 of enterprises.

25 It is rather an amazing note to find  
26 that federalism in Canada meets so many difficulties  
27 in Canada, politically, but private entrepreneurs  
28 are adopting it.

29 If we refer to the quotation from  
30 Drucker in this chapter on federalism in private enter-







prise, we find that this position is very clearly explained that is, decentralization of the duties in order to achieve higher production.

I can also quote the classic work of James G. March and Herbert A. Simon, in particular, at page 150 and 151 and following up to 200, about, where indeed the same conclusion is reached in regard to the application of the principle of federalism, but in private enterprises.

Simon is the most provocative author. He described big United States institutions, but he also gives some profound thought in examining all these enterprises which I feel is rather constructive, even in considering forms for the pilotage systems.

The fourth principle, and I think the three first principles probably would meet with practically unanimous approval of almost all interested parties, but I am not sure that the fourth principle will meet with agreement of all.

I wonder whether I should raise it tonight, or tomorrow morning. I leave this to the Commission. I could complete on that point. I could lay down all the principles.

THE CHAIRMAN: How much time?

MR. LALONDE: I never know.

THE CHAIRMAN: It is 5:05, now.

MR. LALONDE: I will be here tomorrow morning, your lordship.

THE CHAIRMAN: We will adjourn until tomorrow morning at 10:00 o'clock.

--- Whereupon the hearing was adjourned until ten o'clock, Thursday, the 7th day of January, 1965.













BINDING SECT

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